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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2070—State Board of Chiropractic Examiners
Chapter 2—General Rules**

EMERGENCY AMENDMENT

20 CSR 2070-2.090 Fees. The board is proposing to amend subsection (1)(D).

PURPOSE: The State Board of Chiropractic Examiners is statutorily obligated to enforce and administer the provisions of sections 331.010 to 331.115, RSMo. Pursuant to section 331.070, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 331.010 to 331.115, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 331.010 to 331.115, RSMo.

EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date of the rule by informing the public of a change in the fee required for the renewal of a license. The board is proposing to decrease the license renewal fee from two hundred dollars (\$200) to one hundred dollars (\$100). The emergency amendment is necessary to allow the board to collect the decreased fee. Chiropractors with a license expiration date of February 28, 2011, will be mailed

renewal information on or around December 1, 2010, and the decreased fee needs to be reflected in this information. Without this emergency amendment, the decreased fee requirement will not be effective in time for the renewal notice, and confusion will result in the renewal process.

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency amendment, the board has determined that the fee decrease is necessary for the 2011 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in section 331.070.2, RSMo, "A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for license fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the board of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue." The board believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed October 8, 2010, becomes effective October 18, 2010, and expires April 15, 2011.*

(1) The following fees hereby are established by the State Board of Chiropractic Examiners:

(D) Renewal Fee \$[200]/100

*AUTHORITY: sections 43.543 and 331.100.2, RSMo Supp. [2008] 2009 and section 331.070, RSMo 2000. This rule originally filed as 4 CSR 70-2.090. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Oct. 8, 2010, effective Oct. 18, 2010, expires April 15, 2011.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RULE

**4 CSR 240-3.163 Electric Utility Demand-Side Programs
Investment Mechanisms Filing and Submission Requirements**

PURPOSE: This rule sets forth the information that an electric utility must provide when it seeks to establish, continue, modify, or discontinue a Demand-Side Programs Investment Mechanism (DSIM). This rule also sets forth the requirements for submission of information related to DSIM rate adjustment filings and for submission of annual reports as required for electric utilities that have a DSIM.

(1) As used in this rule, the following terms mean:

(A) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical resource manual on an annual basis;

(B) Annual report means a report of information concerning a utility's demand-side programs having the content described in section (5);

(C) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from energy savings and demand savings associated with generation, transmission, and distribution facilities. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(D) Demand means the rate of electric power use measured over an hour in kilowatts (kW);

(E) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(F) Demand-side programs investment mechanism, or DSIM, means a mechanism approved by the commission in a utility's filing for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;
2. Cost recovery of demand-side program costs through a demand-side program cost tracker;
3. Accelerated depreciation on demand-side investments;
4. Recovery of lost revenues; and
5. Utility incentive based on the achieved performance level of approved demand-side programs;

(G) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding or a semi-annual DSIM rate adjustment case;

(H) DSIM rate means the charge on a customer's bill for the portion of the DSIM revenue requirement assigned by the commission to a rate class;

(I) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and the DSIM utility incentive revenue requirement, if allowed by the commission in the utility's last filing for demand-side program approval;

(J) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding to provide the utility with a portion of annual net shared benefits based on the achieved performance level of approved demand-side programs demonstrated through energy and demand savings measured and documented through EM&V reports compared to energy and demand savings targets;

(K) DSIM utility lost revenue requirement means the component of the utility's revenue requirement explicitly approved (if any) by the commission in a utility's filing for demand-side program approval proceeding to address the recovery of lost revenue;

(L) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(M) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh);

(N) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(O) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(P) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(Q) Probable environmental cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility decision-makers, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its probable environmental costs;

(R) Staff means all commission employees, except the secretary of the commission, general counsel, technical advisory staff as defined by section 386.135, RSMo, hearing officer, or regulatory judge; and

(S) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs plus avoided probable environmental cost to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

(2) When an electric utility files to establish a DSIM as described in 4 CSR 240-20.093(2), the electric utility shall file the following supporting information as part of, or in addition to, its direct testimony for the demand-side program filing. Supporting workpapers shall be submitted as executable versions in native format with all formulas intact.

(A) The notice provided to customers describing how the proposed DSIM will work, how any proposed DSIM rate will be determined, and how any DSIM rate will appear on customer bills.

(B) An example customer bill showing how the proposed DSIM shall be separately identified on affected customers' bills.

(C) A complete description and explanation of the design, rationale, and intended operation of the proposed DSIM.

(D) Estimates of the effect of the DSIM on customer rates and average bills for each of the next three (3) years for each rate class.

(E) Estimates of the effect of the utility incentive component of DSIM on utility earnings and key credit metrics for each of the next three (3) years which shows the level of earnings and credit metrics expected to occur for each of the next three (3) years with and without the utility incentive component of DSIM.

(F) A complete explanation of all the costs that shall be considered for recovery under the proposed DSIM and the specific account used for each cost item on the electric utility's books and records.

(G) A complete explanation of any change in business risk to the electric utility resulting from implementation of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.

(H) A proposal for how the commission can determine if any DSIM utility incentives are aligned with helping customers use energy more efficiently.

(I) Annual reports, if any, required by 4 CSR 240-20.093(8).

(J) If the utility proposes to adjust its DSIM rates between general rate proceedings, proposed DSIM rate adjustment clause tariff sheets.

(K) If the utility proposes to adjust the DSIM cost recovery revenue requirement between general rate proceedings, a complete explanation of how the DSIM rates shall be established and adjusted to reflect over-collections or under-collections as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified, or discontinued demand-side programs.

(3) If an electric utility files to modify its approved DSIM, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) Information as required by subsections (2)(A) through (K).

(B) Explanation of any proposed modification to the DSIM and why the proposed modification is being requested.

(C) A complete explanation of any change in business risk to the electric utility resulting from modification of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.

(D) Any additional information the commission ordered to be provided.

(4) If an electric utility files to discontinue its approved DSIM, the electric utility shall file with the commission and serve parties, as provided in section (9), the following supporting information as part of, or in addition to, its direct testimony. Supporting workpapers shall be submitted with all models and spreadsheets provided as executable versions in native format with all formulas intact.

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.093(3)(D).

(B) If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a complete explanation of how the over-collection or under-collection of the DSIM revenue requirement that the electric utility is proposing to discontinue shall be handled.

(C) A complete explanation of why the DSIM is no longer necessary to provide the electric utility a sufficient opportunity to recover demand-side programs costs, lost revenues, and/or to receive a utility incentive.

(D) A complete explanation of any change in business risk to the electric utility resulting from discontinuation of a utility incentive related to the DSIM in setting the electric utility's allowed return on equity, in addition to any other changes in business risk experienced by the electric utility.

(E) Any additional information the commission ordered to be provided.

(5) Each electric utility with approved demand-side programs shall submit, with an affidavit attesting to the veracity of the information, annual reports as required in 4 CSR 240-20.093(8) to the manager of the energy resource analysis section of the staff, public counsel, and others as provided in section (9). The submission to the staff may be made through the commission's electronic filing and information system (EFIS). Annual reports shall include at a minimum the following information and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) A list of all approved demand-side programs and the following information for each approved demand-side program:

1. Actual amounts expended by year, including customer incentive payments;

2. Peak demand and energy savings impacts and the techniques used to estimate those impacts;

3. A comparison of the estimated actual annual peak demand

and energy savings impacts to the level of annual peak demand and energy savings impacts that were projected when the program was approved;

4. For market transformation programs, a quantitative and qualitative assessment of the progress being made in transforming the market;

5. A comparison of actual and budgeted program costs, including an explanation of any increase or decrease of more than ten percent (10%) in the cost of a program;

6. The avoided costs and the techniques used to estimate those costs;

7. The estimated cost-effectiveness of the demand-side program and a comparison to the estimates made by the utility at the time the program was approved;

8. The estimated net economic benefits of the demand-side program;

9. For each program where one (1) or more customers have opted out of demand-side programs pursuant to section 393.1075.7, RSMo, a listing of the customer(s) who have opted out of participating in demand-side programs;

10. A copy of the EM&V report for the most recent annual reporting period; and

11. Demonstration of relationship of the demand-side program to demand-side resources in latest filed 4 CSR 240-22 compliance filing; and

(B) If the utility's DSIM includes adjustments of the DSIM rates between general rate proceedings, the actual revenues billed under the DSIM.

(6) If the electric utility is not submitting a Surveillance Monitoring Report as required in 4 CSR 240-3.161(6) Electric Utility Fuel and Purchased Power Cost Mechanisms Filing and Submission Requirements, then it shall submit a Surveillance Monitoring Report in the form and content required in 4 CSR 240-3.161(6). In addition to the requirements under 4 CSR 240-3.161(6), each electric utility with a DSIM shall submit as page 6 of the Surveillance Monitoring Report a quarterly progress report in a format determined by the staff, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(7) EM&V reports shall document, include analysis, and present any applicable recommendations for at least the following, and all models and spreadsheets shall be provided as executable versions in native format with all formulas intact:

(A) Process evaluation and recommendations, if any; and

(B) Impact evaluation—

1. The lifetime and annual gross and net demand savings and energy savings achieved under each program, and the techniques used to estimate annual demand savings and energy savings; and

2. A demonstration of the cost-effectiveness of the program, to include at a minimum the TRC of each program.

A. If a program is determined not to be cost-effective, the electric utility shall identify the causes why and present appropriate program modifications, if any, to make the program cost-effective. If there are no modifications to make the program cost-effective, the utility shall describe how it intends to end the program and how it intends to achieve the energy and demand savings initially estimated for the discontinued program.

B. The fact that a program proves not to be cost-effective is not by itself sufficient grounds for disallowing cost recovery.

(8) If an electric utility's DSIM includes adjustments of the DSIM rates between general rate proceedings, when it files with the commission tariff sheets to adjust its DSIM rates as described in 4 CSR 240-20.093(4), and serves parties as provided in section (9) in this rule, the tariff sheets shall be accompanied by supporting testimony and contain at least the following supporting information. All mod-

els and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(A) Amount of revenue that it has over-collected or under-collected through the most recent recovery period by rate class.

(B) Proposed adjustments or refunds by rate class.

(C) Electric utility's short-term borrowing rate.

(D) Proposed adjustments to the current DSIM rates.

(E) Complete documentation for the proposed adjustments to the current DSIM rates.

(F) Annual report as required by 4 CSR 240-20.093(8).

(G) Any additional information the commission ordered to be provided.

(9) Party status and providing to other parties affidavits, testimony, information, reports, and workpapers in related proceedings subsequent to the demand-side program approval proceeding establishing, modifying, or continuing a DSIM.

(A) A person or entity granted intervention in a demand-side program approval proceeding in which a DSIM is approved by the commission shall be a party to any subsequent related periodic rate adjustment proceeding without the necessity of applying to the commission for intervention; however, such person or entity shall file a notice of intention to participate within the intervention period. In any subsequent demand-side program approval proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that proceeding. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related semi-annual DSIM rate adjustment proceeding or demand-side program approval proceeding to modify, continue, or discontinue the same DSIM, concurrently with filing the same with the commission or submitting the same to the manager of the energy resource analysis section of the staff and public counsel.

(B) A person or entity not a party to the demand-side program approval proceeding in which a DSIM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic rate adjustment proceeding, or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent demand-side program approval proceeding to modify, continue, or discontinue the same DSIM.

(10) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

(11) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(12) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule and may, if it deems necessary, initiate rule-making proceedings to revise this rule.

AUTHORITY: section 393.1075.11, RSMo Supp. 2009. Original rule filed Oct. 4, 2010.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost affected private entities two hundred thousand dollars (\$200,000) in year one, two hundred thousand dollars (\$200,000) in year two, two hundred

thousand dollars (\$200,000) in year three, and two hundred thousand dollars (\$200,000) in year four.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the **Missouri Register** and should include a reference to Commission Case No. EX-2010-0368. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for Monday, December 20, 2010, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 3 - Filing and Reporting Requirements

Rule Number and Title:	4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the first year cost of compliance with the rule by the affected entities:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities (years 2-4):
4	Investor-owned electric utilities	\$200,000	\$600,000

III. WORKSHEET

1. Estimated aggregate cost of compliance is based on information provided by the four (4) investor-owned electric utilities.
2. The estimated aggregate cost to Missouri electric utilities is provided for the first four (4) years as the rule contains language stating that the commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule.
3. 2010 dollars were used to estimate costs. No adjustment for inflation is applied.

IV. ASSUMPTIONS

If adopted, this proposed rule (along with proposed rules 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094) will enact the provisions of the Missouri Energy Efficiency Investment Act established by SB 376 (2009).

This rule sets forth the information that an electric utility must provide when it seeks to establish, continue, modify, or discontinue a Demand-Side Programs Investment Mechanism (DSIM). This rule also sets forth the requirements for submission of information related to DSIM rate adjustment filings and for submission of annual reports as required for electric utilities that have a DSIM.

- 1. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company (KCPL/GMO) stated that the estimated fiscal impact includes costs associated with implementation of SB 376 excluding program costs of the demand-side programs. It is expected that the programs will be those programs defined in the company's Integrated Resource Plan filing made with the Missouri Public Service Commission. In addition, KCPL/GMO indicated that the costs related to annual reporting requirements and annual Evaluation, Measurement and Verification (EM&V) for 4 CSR 240-3.163 were included in their response to 4 CSR 240-20.093.
 2. Empire District Electric Company stated that they are providing a conservative estimate for the implementation of SB 376 as it relates to the Proposed Rule 4 CSR 240-3.163. Costs attributable to this rule include reporting requirements and outside consultants.
 3. AmerenUE estimated that 100% of their costs related SB 376 should be applied to the Proposed Rule 4 CSR 240-20.094. However, AmerenUE notes that there will be additional costs in the programming, legal, accounting and regulatory departments that are hard to quantify at this time. AmerenUE will have to make additional filings, develop accounting systems and an additional line item will need to be placed on the post card bill.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration and)
Implementation of Section 393.1075,) Case No. EX-2010-0368
the Missouri Energy Efficiency Investment Act)

DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT

The Public Service Commission (“Commission”) has voted to transmit to the Secretary of State proposed rules regarding Senate Bill 376, codified at Section 393.1075, RSMo Cum. Supp. 2009, and known as the Missouri Energy Efficiency Investment Act (“MEEIA” or “Act”). MEEIA represents a positive step forward in promoting energy efficiency. However, transmitting proposed rules to the Secretary of State at this time is premature because some of the provisions are either unconstitutional or unlawful. These legal concerns should be addressed before formal rulemaking begins. Therefore, I dissent.

Portions of the proposed rules unlawfully exceed the scope of the Act and can only result in rules that are unlawful, unjust, arbitrary, and capricious. The rules as currently drafted reflect regulatory policy choices that are detrimental to electric utilities and the customers they serve – rather than enhancing the opportunities for electric utilities to develop effective energy efficiency programs as anticipated by the Act.

Following the law and promulgating rules that are within the grant of authority given to the Commission is critical to achieving the goals set out in MEEIA. Making policy choices that exceed the scope of the Act will not serve Missouri's citizens; rather, it will cause the rules implementing this important piece of energy legislation to be snarled in expensive, time-

consuming and unnecessary legal entanglements. Even worse, the proposed rules as written will not encourage electric utilities to implement energy efficiency programs.

This Commission should propose lawful rules that will not only withstand the scrutiny of notice and comment, but also JCAR and the courts of this state. The proposed rules do not.

My concerns are not limited to those items outlined here, but the issues identified below are unlawful and do not merit transmittal to the Secretary of State. Senate Bill 376 stated unequivocally that it is the *“policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”* Section 393.1075.3. The portions of the rules that concern me are at odds with this stated policy.

1. **Rules are not mandatory.** Section 393.1075.11 provides: “The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section.” (emphasis added). The use of the word “may” by the General Assembly means that this Commission is not required to adopt any rules. The Act is sufficient standing alone to implement its purposes. Rather than adopt rules, the Commission could choose to exercise its oversight in other proceedings, such as rate cases. It follows that if this Commission chooses to adopt rules, it should take great care to ensure that such rules do not go beyond the scope of the law. Unfortunately, the proposed rules go beyond the scope of the law in at least two important respects.

2. **Energy and demand “savings goals.”** 4 CSR 240-20.094 (2)(A) and (B) establish energy and demand savings goals, increasing for each year between 2012 and 2020. Interested persons in the workshop and rulemaking process did not and cannot show that these

goals have any scientific basis or facts to support them, or are in any way relevant to Missouri's electric utilities. Instead, the percentages—by admission of the Commission staff—are based on statutory choices made in other states, rules or policy announcements. These other states do not have the same statutory or regulatory structure that we have in Missouri, so the goals do not translate to Missouri and our electric utilities.

This Commission is an agency of limited jurisdiction and authority, and the lawfulness of its actions depends entirely upon whether or not it has statutory authority to act. The General Assembly could have adopted set percentages of demand-side savings for each individual Missouri electric utility or it could have instructed the Commission to set such targets as part of its rulemaking authority (other states' statutes have done one or the other). Our General Assembly did neither. Instead, it stated simply that the programs need to be "cost-effective." There is no express or implied authority for the Commission to adopt standard savings goals in the regulations implementing MEEIA. These two subsections should be removed from the proposed rule altogether.

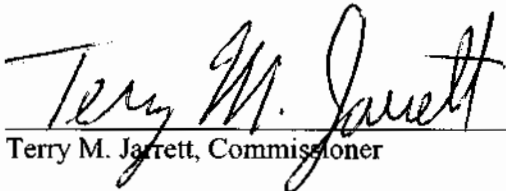
3. **Penalties.** 4 CSR 240-20.094 (2) establishes that if a participating electric utility does not meet the energy savings goals discussed above, then the electric utility may be subject to a penalty or other, undefined, adverse consequences. The Act provides no express or implied authorization for the imposition of penalties or adverse consequences; to the contrary, the Act is designed to incent electric utilities to create programs which result in decreased sales. This unlawful provision negates the positive attributes of the Act. Cost recovery and incentives fail to outweigh the wide ranging risks of incurring the penalties or adverse consequences possible from an electric utility participating under the Act. Why would an electric utility spend a large amount of money to implement an energy efficiency program when it would face the risk of a

penalty or other adverse consequences (such as negative treatment in a rate case) if arbitrary and unscientific goals are not achieved? The risk of penalties or adverse consequences stifle experimentation, creativity and innovation, three things that the Act was designed to encourage. The current language in 4 CSR 240-20.094 (2) goes beyond the Commission's statutory authority, works against the General Assembly's mandate to incent electric utilities to implement energy efficiency programs, and should be stricken from the rule.

Conclusion

The proposed rules as currently written do not enable or encourage electric utilities to achieve the purposes of the Act. They need more work to bring them into compliance with the law. Therefore, they should not be transmitted to the Secretary of State until the unlawful provisions have been removed.

Sincerely,


Terry M. Jarrett, Commissioner

Submitted this 28th day of September, 2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Consideration and)
Implementation of Section 393.1075, the)
Missouri Energy Efficiency Investment Act.)

File No. EX-2010-0368

DISSENT OF COMMISSIONER JEFF DAVIS TO PUBLISH RULES IMPLEMENTING THE MISSOURI ENERGY EFFICIENCY INVESTMENT ACT

I dissent fully with my colleagues in the reasoning and decision to transmit the proposed “energy efficiency” rules to the Secretary of State. My disagreement is not with what my colleagues are trying to do, but with the way they are going about it.

There are three major issues with regard to this rulemaking: (1) the presence of “energy and demand ‘savings goals’” in 4 CSR 240-20.094(2)(A) and (B); (2) the penalty language prescribed in 4 CSR 240-20.094(2); and (3) the legality of the cost recovery mechanism.

I. The discussion of energy and demand savings goals...

With regard to the energy and demand “savings goals” outlined in 4 CSR 240 20.094(2)(A) and (B), it is my opinion that these goals are not supported by competent and substantial evidence.

I am not opposed to this Commission establishing energy and demand savings goals. I must oppose adopting a standard based on the standards set by other states around us without competent and substantial evidence adduced in the hearing process to support the goals we have adopted and further approving language that could be used to penalize utilities for failure to meet those targets beginning in 2012.

When establishing goals of this nature and attaching a penalty thereto for non-compliance, we need to take evidence in support of those goals and the parties supplying that evidence need to be subject to cross-examination. A one-size fits all goal might be fine for an entity like the state of Missouri, but it may not be feasible for an individual utility. A wide range of factors, especially weather, can affect a utility's ability to meet these goals. An evidentiary hearing would be the only way to get to the truth of the matter by establishing an appropriate record on which standards could be based. Now, utilities are going to be put in the unenviable task of having to prove themselves innocent in front of the Commission if they are unable to comply with goals established without hearing or evidence, but they'll sure "sound good" when we read them in the newspaper.

Of equal or even greater concern to me is the stakeholder process by which the PSC Staff assembled these rules. More interest groups and parties are intervening in PSC cases and taking positions in rulemakings than ever before. Public concern for the environment and rising rates in a weak economy is understandable, but we also have to be wary that many of these special interest groups have their own agendas that include selling products and services as well as achieving certain environmental goals that are not necessarily aligned with keeping the rates low or the lights on.

Throughout the stakeholder process in developing these rules, the utilities did not appear to be on equal footing with the other stakeholder groups. As an observer of the process, it was my impression that all a stakeholder had to do to get something in the rule was convince a majority of the other stakeholders to vote with them. The effect is to send the wrong message to intervenors and participants – just get a bunch of your

buddies to come in, support your position no matter how absurd it may be and you'll get something out of the deal.

That's my impression of what happened here. When the utilities opposed a proposal, the PSC Staff would attempt to split the difference between the two factions. The PSC Staff is in a tough spot and performed admirably in this regard, but the problem is the same one that has been manifesting itself in rate cases for the last several years – "splitting the difference" between two positions often causes parties to take increasingly outrageous positions in an effort to gain a more favorable outcome.

It's important to remember that utilities are the ones responsible for keeping the lights on and delivering heat to people's homes. As such, they are not entitled to preferential treatment by this Commission; however, they should be entitled to due process including the ability to present evidence and cross-examine witnesses regarding the goals we are setting for them.

Several parties were quick to point out that there is a wealth of information on this issue available, but other than comparing what is being published to what other states have enacted, there was no evidence in the record to support the goals being transmitted to the Secretary of State for publication are appropriate for the affected utilities. Further, there is no support whatsoever for the language contained in Sections 4 CSR 240-20.094(2)(A)(9) and (2)(B)(9) that contain annual default percentage goal reductions after the year 2020.

In conclusion, I am fine with setting goals for energy and demand savings by the respective utilities, but they need to be based on this Commission's findings and not findings in another state. Those goals should be established in an actual case here at

the PSC where all interested parties have an opportunity to have witnesses present evidence under oath and be subject to cross-examination. It is the only way to know whether we're getting truly honest answers from the parties. Anything less than that, particularly where there are penalties attached, is arbitrary and capricious.

II. Penalties for failure to comply with Section 4 CSR 240-20.094(2):

Section 4 CSR 240-20.094(2) states in pertinent part:

The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may impact the utility's DSIM revenue requirement but is not by itself sufficient grounds to assess a penalty or adverse consequence for poor performance.

Alternatively, I read this sentence to say: "The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may be combined with any other factor to assess a penalty or impose adverse consequences on a utility for performance."

I was shocked and troubled that no utility offered any comment on this last-minute piece of wordsmithing. Arguably, the language is better than some of the other language that was proposed; however, it still leaves much to be desired.

It is important to remember that the PSC is a creature of statute and the case law is clear our powers are only those expressly conferred or clearly implied by statute. Section 393.1075 does not give us the authority to establish demand reduction and energy savings goals. Arguably, we might have that authority under other sections of law, but those sections are not being cited in this case. More importantly, Section 393.1075 contains no support for "penalties" or "adverse consequences."

Section 393.1075 contains only one reference to any kind of penalty that can be imposed pursuant to the statute. In Section 393.1075.14(3), the statute provides “The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor.” The express language of this provision emphasizes the point that if the legislature had wanted to penalize utilities for failing to comply with this act, they had ample opportunity to do so and affirmatively chose not to act.

Further, this language is inconsistent with the positive language used by the Missouri General Assembly in Section 393.1075.3, which states the purpose of the legislation:

It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

One must presume the legislature knew what it was doing when enacting this law. This section clearly lays out the purpose of the act and clearly emphasizes positive financial incentives for utilities: “timely cost recovery,” “ensuring that utility financial incentives are aligned with helping customers” and “provid[ing] timely earnings opportunities.” The use of the term “incentives” by the General Assmbley evidences the

fact that they know how to provide “incentives” as well as “disincentives”, but for whatever reason did not provide any disincentives for failure to act by the utility itself, probably because the act is in and of itself voluntary in nature.

Section 393.1075.4 further evidences the lack of a mandate for any kind of Commission-imposed penalty language by stating “The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings.” Had the legislature wanted to require electric utilities to implement demand response programs, they would have made the language mandatory for the electric utilities to offer such programs instead of being permissive.

Thus, in addition to having “goals” not supported by competent and substantial evidence, we have an unlawful provision containing a “penalty” or “adverse consequence.” The only penalty authority we have is that expressly given us in Section 386.570 and any reference to the contrary should be removed.

III. Questions Regarding Cost Recovery:

From the consumer perspective, the most hotly contested issue in this rulemaking is the presence of the cost recovery language. Section 393.1075.3(1) unequivocally states that the commission shall provide utilities with “timely cost recovery” in support of valuing demand-side utility investments equal to traditional investments in supply and delivery infrastructure.

What does “timely cost recovery” mean? Here, the dispute is not over the concept of “cost recovery,” but what is “timely” in the context of cost recovery? Consumer advocates argued we are somehow violating the Supreme Court’s ban on single-issue ratemaking. The electric utilities would have preferred a surcharge mechanism similar to the “Infrastructure System Replacement Surcharge” (ISRS) used by gas utilities and one water company in St. Louis County. In the end, the Commission did include cost recovery language patterned after the fuel adjustment surcharge.

This is one part of the rule that I actually support. I would have preferred the ISRS approach because it would have provided the utilities with more timely cost recovery, but I can live with it going forward and did not find the briefs of the opposing parties persuasive on the single-issue ratemaking point.

To me, this issue hinges on the definition of the word “timely.” The word is not defined by case law, statute or rule, so we’re left with the Canons of Statutory Construction. The Canons say to give words their plain and ordinary meaning as found in the dictionary. Merriam-Webster’s On-line Dictionary offered several definitions of the word “timely.” When using the term as an adjective as used by the legislature in this case, two definitions jumped off the page: “coming early or at the right time” and “appropriate under the circumstances.”

As the legislature is often want to do, they have given the PSC wide latitude to decide how best to implement their directive. In this case, we’ve been instructed to phase in cost recovery for programs approved pursuant to Section 393.1075. Had they

wanted us to implement these charges in a rate case proceeding or by a tariff filing, they could have said so either expressly or implicitly. They didn't.

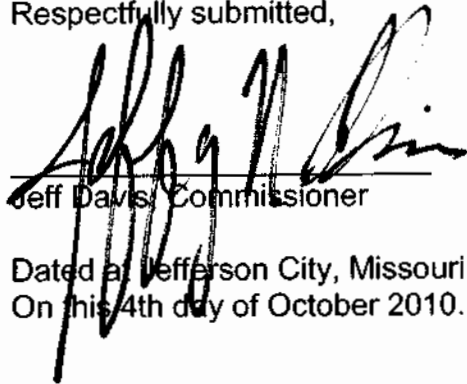
All relevant factors have to be considered in setting rates that are both just and reasonable. That being said I didn't find anything filed by the consumer advocates in this case to be persuasive on their point that what the Commission has done constitutes single-issue ratemaking. Likewise, I was not persuaded by the arguments of Ameren UE (now Ameren Missouri) and other parties in that company's previous rate case that in order to consider all relevant factors you have to spend eleven months analyzing three rounds of pre-filed testimony, two weeks of live testimony and two or three more rounds of briefings with an update to consider all relevant factors. Thus, based on the comments provided so far in this proceeding, I can find no evidence to persuade me that the Commission's chosen method of cost recovery in this rulemaking is unlawful. It's simply not the mechanism I would have chosen and I have grave concerns that removing these provisions would, in fact, violate Section 393.1075.3(1), which states the Commission "shall provide timely cost recovery for utilities" when approving these programs.

IV. Conclusion:

For the reasons set out above, I dissent with the Commission's decision to send these rules to the Secretary of State for publication. We should strip out the goals and have real proceedings for each of the affected utilities to determine what their energy and demand savings goals are. The penalty language associated with these goals is inconsistent with the statute and should be removed. Finally, the rate adjustment

mechanism used to implement these programs appears to be lawful, although not my favorite. "Timely cost recovery" is not meant to be instantaneous, but it shouldn't take 11 months or longer as some parties have suggested.

Respectfully submitted,



Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 4th day of October 2010.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RULE

4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements

PURPOSE: This rule sets forth the information that an electric utility must provide when it seeks approval, modification, or discontinuance of demand-side programs.

(1) As used in this rule, the following terms mean:

(A) Avoided cost or utility avoided cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from energy savings and demand savings associated with generation, transmission, and distribution facilities. The utility shall use the same methodology used in its most recently adopted preferred resource plan to calculate its avoided costs;

(B) Baseline demand forecast means a reference end-use forecast of demand in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(C) Baseline energy forecast means a reference end-use forecast of energy in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(D) Demand means the rate of electric power use over an hour measured in kilowatts (kW);

(E) Demand-side portfolio or portfolio of programs means all of a utility's demand-side programs at a defined point in time;

(F) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(G) Demand-side program plan means a particular combination of demand-side programs to be delivered according to a specified implementation schedule and budget;

(H) Economic potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from customer adoption of all cost-effective measures, regardless of customer preferences;

(I) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(J) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh);

(K) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(L) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(M) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net retail kWh below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission

in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(N) Maximum achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and ideal implementation conditions. Maximum achievable potential establishes a maximum target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a very high portion of total programs costs and very short customer payback periods. Maximum achievable potential is considered the hypothetical upper-boundary of achievable demand-side savings potential, because it presumes conditions that are ideal and not typically observed;

(O) Measure means any device, technology, or operating procedure that makes it possible to deliver an adequate level and quality of energy service while—

1. Using less energy than would otherwise be required; or

2. Altering the time pattern of electricity so as to require less generating capacity or to allow the electric power to be supplied from more fuel-efficient units;

(P) Non-participant test (sometimes referred to as the ratepayer impact measure test or RIM test) is a measure of the difference between the change in total revenues paid to a utility and the change in total cost incurred by the utility as a result of the implementation of demand-side programs. The benefits are the avoided cost as a result of implementation. The costs consist of incentives paid to participants, other costs incurred by the utility, and the loss in revenue as a result of diminished consumption. Utility costs include the costs to administer, deliver, and evaluate each demand-side program;

(Q) Participant test means the test of the cost-effectiveness of demand-side programs that measures the economics of a demand-side program from the perspective of the customers participating in the program;

(R) Probable environmental cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility decision-makers, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its probable environmental costs;

(S) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(T) Realistic achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and realistic implementation conditions. Realistic achievable potential establishes a realistic target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a moderate portion of total program costs and longer customer payback periods when compared to those associated with maximum achievable potential;

(U) Societal cost test means the total resource cost test with the addition of societal benefits (externalities such as, but not limited to, environmental or economic benefits) to the total benefits of the total resource cost test;

(V) Staff means all commission employees, except the secretary of the commission, general counsel, technical advisory staff as defined by section 386.135, RSMo, hearing officer, or regulatory judge;

(W) Technical potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from a theoretical construct that assumes all feasible measures are adopted by customers of the utility regardless of cost or customer preference;

(X) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility cost plus avoided probable environmental cost to the sum of

all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources; and

(Y) Utility cost test means the test that compares the avoided utility costs to the sum of all utility incentive payments, plus utility costs to administer, deliver, and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources.

(2) When an electric utility files for approval of demand-side programs or demand-side program plans as described in 4 CSR 240-20.094(3), the electric utility shall file or provide a reference to which commission case contains the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(A) A current market potential study. The current market potential study shall use primary data and analysis for the utility's service territory. The determination of whether to conduct a market potential study for the utility's service territory or for all statewide investor-owned electric utilities shall be at the discretion of the electric utility. If the current market potential study of the electric utility that is filing for approval of demand-side programs or a demand-side program plan is part of a statewide investor-owned electric utilities market potential study, the sampling methodology shall reflect each utility's service territory and shall provide statistically significant results for that utility. The current market potential study shall be updated with primary data and analysis no less frequently than every four (4) years. To the extent that primary data for each utility service territory is unavailable or insufficient, the market potential study may also rely on or be supplemented by data from secondary sources and relevant data from other geographic regions. The current market potential study shall be prepared by an independent third party with opportunities for commission staff and stakeholder review and input in the planning stages of the analysis including review of assumptions and methodology in advance of the performance of the study, and shall include at least the following:

1. Complete documentation of all assumptions, definitions, methodologies, sampling techniques, and other aspects of the current market potential study;
2. Clear description of the process used to identify the broadest possible list of measures and groups of measures for consideration;
3. Clear description of the process used to determine technical potential, economic potential, maximum achievable potential, and realistic achievable potential for a twenty (20)-year planning horizon for major end-use groups (e.g., lighting, space heating, space cooling, refrigeration, motor drives, etc.) for each customer class; and
4. Identification and discussion of the twenty (20)-year baseline energy and demand forecasts. If the baseline energy and demand forecasts in the current market potential study differ from the baseline forecasts in the utility's most recent 4 CSR 240-22 triennial compliance filing, the current market potential study shall provide a comparison of the two (2) sets of forecasts and a discussion of the reasons for any differences between the two (2) sets of forecasts. The twenty (20)-year baseline energy and demand forecasts shall account for the following:

- A. Discussion of the treatment of all of the utility's customers who have opted out;
- B. Changes in building codes and/or appliance efficiency standards;
- C. Changes in customer combined heat and power applications; and
- D. Third party and other naturally occurring demand-side savings.

(B) Demonstration of cost-effectiveness for each demand-side program and for the total of all demand-side programs of the utility. At a minimum, the electric utility shall include:

1. The total resource cost test and a detailed description of the utility's avoided cost calculations and all assumptions used in the calculation. To the extent that the portfolio of programs fails to meet the TRC test, the utility shall examine whether the failure persists if it considers a reasonable range of uncertainty in the assumptions used to calculate avoided costs;

2. The utility shall also include calculations for the utility cost test, the participant test, the non-participant test, and the societal cost test; and

3. The impacts on annual revenue requirements and net present value of annual revenue requirements as a result of the integration analysis in accordance with 4 CSR 240-22.060 over the twenty (20)-year planning horizon.

(C) Detailed description of each proposed demand-side program to include at least:

1. Customers targeted;
2. Measures included;
3. Customer incentives;
4. Proposed promotional techniques;
5. Specification of whether the program will be administered by the utility or a contractor;
6. Projected gross and net annual energy savings;
7. Proposed annual energy savings targets and cumulative energy savings targets;
8. Projected gross and net annual demand savings;
9. Proposed annual demand savings targets and cumulative demand savings targets;
10. Net-to-gross factors;
11. Size of the potential market and projected penetration rates;
12. Any market transformation elements included in the program and an EM&V plan for estimating, measuring, and verifying the energy and capacity savings that the market transformation efforts are expected to achieve;
13. EM&V plan including at least the proposed evaluation schedule and the proposed approach to achieving the evaluation goals pursuant to 4 CSR 240-3.163(7) and 4 CSR 240-20.093(7);
14. Budget information in the following categories:
 - A. Administrative costs listed separately for the utility and/or program administrator;
 - B. Program incentive costs;
 - C. Estimated equipment costs;
 - D. Estimated installation costs;
 - E. EM&V costs; and
 - F. Miscellaneous itemized costs, some of which may be an allocation of total costs for overhead items such as the market potential study or the statewide technical reference manual;
15. Description of any strategies used to minimize free riders;
16. Description of any strategies used to maximize spillover; and
17. For demand-side program plans, the proposed implementation schedule of individual demand-side programs.

(D) Demonstration and explanation in quantitative and qualitative terms of how the utility's demand-side programs are expected to make progress towards a goal of achieving all cost-effective demand-side savings over the life of the programs. Should the expected demand-side savings fall short of the incremental annual demand-side savings levels and/or the cumulative demand-side savings levels used to review the utility's progress, the utility shall provide detailed explanation of why the incremental annual demand-side savings levels and/or the cumulative demand-side savings levels cannot be expected to be achieved, and the utility shall bear the burden of proof.

(E) Identification of demand-side programs which are supported by the electric utility and at least one (1) other electric or gas utility (joint demand-side programs).

(3) Designation of Program Pilots. For programs designed to operate on a limited basis for evaluation purposes before full implementation

(program pilot), the utility shall provide as much of the information required under subsections (2)(C) through (E) as is practical and shall include explicit questions that the program pilot will address, the means and methods by which the utility proposes to address the questions the program pilot is designed to address, a provisional cost-effectiveness evaluation, the proposed geographic area, and duration for the program pilot.

(4) When an electric utility files to modify demand-side programs as described in 4 CSR 240-20.094(4), the electric utility shall file a complete explanation for and documentation of the proposed modifications to each of the filing requirements in section (2). All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(5) When an electric utility files to discontinue a demand-side program as described in 4 CSR 240-20.094(5), the electric utility shall file the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.

(A) Complete explanation for the utility's decision to request to discontinue a demand-side program.

(B) EM&V reports for the demand-side program in question.

(C) Date by which a final EM&V report for the demand-side program in question will be filed.

(6) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(7) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: section 393.1075.11, RSMo Supp. 2009. Original rule filed Oct. 4, 2010.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost affected private entities \$1,120,000 in year one, three hundred twenty thousand dollars (\$320,000) in year two, three hundred twenty thousand (\$320,000) in year three, and \$1,120,000 in year four.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the **Missouri Register** and should include a reference to Commission Case No. EX-2010-0368. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for Monday, December 20, 2010, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.*

SPECIAL NEEDS: *Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hear-*

ing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 3 - Filing and Reporting Requirements

Rule Number and Title:	4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the first year cost of compliance with the rule by the affected entities:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities (years 2-4):
4	Investor-owned electric utilities	\$1,120,000	\$1,760,000

III. WORKSHEET

1. Estimated aggregate cost of compliance is based on information provided by the four (4) investor-owned electric utilities.
2. The estimated aggregate cost to Missouri electric utilities is provided for the first four (4) years as the rule contains language stating that the commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule.
3. 2010 dollars were used to estimate costs. No adjustment for inflation is applied.

IV. ASSUMPTIONS

If adopted, this proposed rule (along with proposed rules 4 CSR 240-3.163, 4 CSR 240-20.093 and 4 CSR 240-20.094) will enact the provisions of the Missouri Energy Efficiency Investment Act established by SB 376 (2009).

This rule sets forth the information that an electric utility must provide when it seeks approval, modification or discontinuance of demand-side programs.

1. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company (KCPL/GMO) stated that the estimated fiscal impact includes costs associated with implementation of SB 376 excluding program costs of the demand-side programs. It is expected that the programs will be those programs

- defined in the company's Integrated Resource Plan filing made with the Missouri Public Service Commission. Costs attributable to this rule include a market potential study with primary data updated at least every four (4) years, analytics for programs, and Evaluation, Measurement and Verification (EM&V). In addition, KCPL/GMO anticipates the need for four (4) additional FTE.
- 2. Empire District Electric Company stated that they are providing a conservative estimate for the implementation of SB 376 as it relates to the Proposed Rule 4 CSR 240-3.164. Costs attributable to this rule include a potential study, benefit cost analysis and program development, and defense of demand-side savings levels achieved.
- 3. AmerenUE estimated that 100% of their costs related SB 376 should be applied to the Proposed Rule 4 CSR 240-20.094. However, AmerenUE notes that there will be additional costs in the programming, legal, accounting and regulatory departments that are hard to quantify at this time. AmerenUE will have to make additional filings, develop accounting systems and an additional line item will need to be placed on the post card bill.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration and)	
Implementation of Section 393.1075,	)	Case No. EX-2010-0368
the Missouri Energy Efficiency Investment Act)	

DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT

The Public Service Commission ("Commission") has voted to transmit to the Secretary of State proposed rules regarding Senate Bill 376, codified at Section 393.1075, RSMo Cum. Supp. 2009, and known as the Missouri Energy Efficiency Investment Act ("MEEIA" or "Act"). MEEIA represents a positive step forward in promoting energy efficiency. However, transmitting proposed rules to the Secretary of State at this time is premature because some of the provisions are either unconstitutional or unlawful. These legal concerns should be addressed before formal rulemaking begins. Therefore, I dissent.

Portions of the proposed rules unlawfully exceed the scope of the Act and can only result in rules that are unlawful, unjust, arbitrary, and capricious. The rules as currently drafted reflect regulatory policy choices that are detrimental to electric utilities and the customers they serve – rather than enhancing the opportunities for electric utilities to develop effective energy efficiency programs as anticipated by the Act.

Following the law and promulgating rules that are within the grant of authority given to the Commission is critical to achieving the goals set out in MEEIA. Making policy choices that exceed the scope of the Act will not serve Missouri's citizens; rather, it will cause the rules implementing this important piece of energy legislation to be snarled in expensive, time-

consuming and unnecessary legal entanglements. Even worse, the proposed rules as written will not encourage electric utilities to implement energy efficiency programs.

This Commission should propose lawful rules that will not only withstand the scrutiny of notice and comment, but also JCAR and the courts of this state. The proposed rules do not.

My concerns are not limited to those items outlined here, but the issues identified below are unlawful and do not merit transmittal to the Secretary of State. Senate Bill 376 stated unequivocally that it is the *“policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”* Section 393.1075.3. The portions of the rules that concern me are at odds with this stated policy.

1. **Rules are not mandatory.** Section 393.1075.11 provides: “The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section.” (emphasis added). The use of the word “may” by the General Assembly means that this Commission is not required to adopt any rules. The Act is sufficient standing alone to implement its purposes. Rather than adopt rules, the Commission could choose to exercise its oversight in other proceedings, such as rate cases. It follows that if this Commission chooses to adopt rules, it should take great care to ensure that such rules do not go beyond the scope of the law. Unfortunately, the proposed rules go beyond the scope of the law in at least two important respects.

2. **Energy and demand “savings goals.”** 4 CSR 240-20.094 (2)(A) and (B) establish energy and demand savings goals, increasing for each year between 2012 and 2020. Interested persons in the workshop and rulemaking process did not and cannot show that these

goals have any scientific basis or facts to support them, or are in any way relevant to Missouri's electric utilities. Instead, the percentages—by admission of the Commission staff—are based on statutory choices made in other states, rules or policy announcements. These other states do not have the same statutory or regulatory structure that we have in Missouri, so the goals do not translate to Missouri and our electric utilities.

This Commission is an agency of limited jurisdiction and authority, and the lawfulness of its actions depends entirely upon whether or not it has statutory authority to act. The General Assembly could have adopted set percentages of demand-side savings for each individual Missouri electric utility or it could have instructed the Commission to set such targets as part of its rulemaking authority (other states' statutes have done one or the other). Our General Assembly did neither. Instead, it stated simply that the programs need to be "cost-effective." There is no express or implied authority for the Commission to adopt standard savings goals in the regulations implementing MEEIA. These two subsections should be removed from the proposed rule altogether.

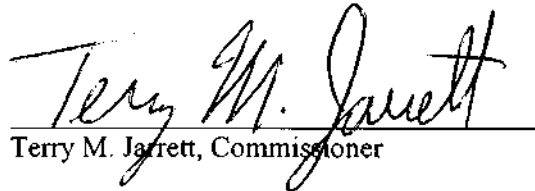
3. **Penalties.** 4 CSR 240-20.094 (2) establishes that if a participating electric utility does not meet the energy savings goals discussed above, then the electric utility may be subject to a penalty or other, undefined, adverse consequences. The Act provides no express or implied authorization for the imposition of penalties or adverse consequences; to the contrary, the Act is designed to incent electric utilities to create programs which result in decreased sales. This unlawful provision negates the positive attributes of the Act. Cost recovery and incentives fail to outweigh the wide ranging risks of incurring the penalties or adverse consequences possible from an electric utility participating under the Act. Why would an electric utility spend a large amount of money to implement an energy efficiency program when it would face the risk of a

penalty or other adverse consequences (such as negative treatment in a rate case) if arbitrary and unscientific goals are not achieved? The risk of penalties or adverse consequences stifle experimentation, creativity and innovation, three things that the Act was designed to encourage. The current language in 4 CSR 240-20.094 (2) goes beyond the Commission's statutory authority, works against the General Assembly's mandate to incent electric utilities to implement energy efficiency programs, and should be stricken from the rule.

Conclusion

The proposed rules as currently written do not enable or encourage electric utilities to achieve the purposes of the Act. They need more work to bring them into compliance with the law. Therefore, they should not be transmitted to the Secretary of State until the unlawful provisions have been removed.

Sincerely,


Terry M. Jarrett, Commissioner

Submitted this 28th day of September, 2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Consideration and)
Implementation of Section 393.1075, the)
Missouri Energy Efficiency Investment Act.)

File No. EX-2010-0368

DISSENT OF COMMISSIONER JEFF DAVIS **TO PUBLISH RULES IMPLEMENTING THE MISSOURI** **ENERGY EFFICIENCY INVESTMENT ACT**

I dissent fully with my colleagues in the reasoning and decision to transmit the proposed “energy efficiency” rules to the Secretary of State. My disagreement is not with what my colleagues are trying to do, but with the way they are going about it.

There are three major issues with regard to this rulemaking: (1) the presence of “energy and demand ‘savings goals’” in 4 CSR 240-20.094(2)(A) and (B); (2) the penalty language prescribed in 4 CSR 240-20.094(2); and (3) the legality of the cost recovery mechanism.

I. The discussion of energy and demand savings goals...

With regard to the energy and demand “savings goals” outlined in 4 CSR 240 20.094(2)(A) and (B), it is my opinion that these goals are not supported by competent and substantial evidence.

I am not opposed to this Commission establishing energy and demand savings goals. I must oppose adopting a standard based on the standards set by other states around us without competent and substantial evidence adduced in the hearing process to support the goals we have adopted and further approving language that could be used to penalize utilities for failure to meet those targets beginning in 2012.

When establishing goals of this nature and attaching a penalty thereto for non-compliance, we need to take evidence in support of those goals and the parties supplying that evidence need to be subject to cross-examination. A one-size fits all goal might be fine for an entity like the state of Missouri, but it may not be feasible for an individual utility. A wide range of factors, especially weather, can affect a utility's ability to meet these goals. An evidentiary hearing would be the only way to get to the truth of the matter by establishing an appropriate record on which standards could be based. Now, utilities are going to be put in the unenviable task of having to prove themselves innocent in front of the Commission if they are unable to comply with goals established without hearing or evidence, but they'll sure "sound good" when we read them in the newspaper.

Of equal or even greater concern to me is the stakeholder process by which the PSC Staff assembled these rules. More interest groups and parties are intervening in PSC cases and taking positions in rulemakings than ever before. Public concern for the environment and rising rates in a weak economy is understandable, but we also have to be wary that many of these special interest groups have their own agendas that include selling products and services as well as achieving certain environmental goals that are not necessarily aligned with keeping the rates low or the lights on.

Throughout the stakeholder process in developing these rules, the utilities did not appear to be on equal footing with the other stakeholder groups. As an observer of the process, it was my impression that all a stakeholder had to do to get something in the rule was convince a majority of the other stakeholders to vote with them. The effect is to send the wrong message to intervenors and participants – just get a bunch of your

buddies to come in, support your position no matter how absurd it may be and you'll get something out of the deal.

That's my impression of what happened here. When the utilities opposed a proposal, the PSC Staff would attempt to split the difference between the two factions. The PSC Staff is in a tough spot and performed admirably in this regard, but the problem is the same one that has been manifesting itself in rate cases for the last several years – “splitting the difference” between two positions often causes parties to take increasingly outrageous positions in an effort to gain a more favorable outcome.

It's important to remember that utilities are the ones responsible for keeping the lights on and delivering heat to people's homes. As such, they are not entitled to preferential treatment by this Commission; however, they should be entitled to due process including the ability to present evidence and cross-examine witnesses regarding the goals we are setting for them.

Several parties were quick to point out that there is a wealth of information on this issue available, but other than comparing what is being published to what other states have enacted, there was no evidence in the record to support the goals being transmitted to the Secretary of State for publication are appropriate for the affected utilities. Further, there is no support whatsoever for the language contained in Sections 4 CSR 240-20.094(2)(A)(9) and (2)(B)(9) that contain annual default percentage goal reductions after the year 2020.

In conclusion, I am fine with setting goals for energy and demand savings by the respective utilities, but they need to be based on this Commission's findings and not findings in another state. Those goals should be established in an actual case here at

the PSC where all interested parties have an opportunity to have witnesses present evidence under oath and be subject to cross-examination. It is the only way to know whether we're getting truly honest answers from the parties. Anything less than that, particularly where there are penalties attached, is arbitrary and capricious.

II. Penalties for failure to comply with Section 4 CSR 240-20.094(2):

Section 4 CSR 240-20.094(2) states in pertinent part:

The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may impact the utility's DSIM revenue requirement but is not by itself sufficient grounds to assess a penalty or adverse consequence for poor performance.

Alternatively, I read this sentence to say: "The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may be combined with any other factor to assess a penalty or impose adverse consequences on a utility for performance."

I was shocked and troubled that no utility offered any comment on this last-minute piece of wordsmithing. Arguably, the language is better than some of the other language that was proposed; however, it still leaves much to be desired.

It is important to remember that the PSC is a creature of statute and the case law is clear our powers are only those expressly conferred or clearly implied by statute. Section 393.1075 does not give us the authority to establish demand reduction and energy savings goals. Arguably, we might have that authority under other sections of law, but those sections are not being cited in this case. More importantly, Section 393.1075 contains no support for "penalties" or "adverse consequences."

Section 393.1075 contains only one reference to any kind of penalty that can be imposed pursuant to the statute. In Section 393.1075.14(3), the statute provides "The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor." The express language of this provision emphasizes the point that if the legislature had wanted to penalize utilities for failing to comply with this act, they had ample opportunity to do so and affirmatively chose not to act.

Further, this language is inconsistent with the positive language used by the Missouri General Assembly in Section 393.1075.3, which states the purpose of the legislation:

It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

One must presume the legislature knew what it was doing when enacting this law. This section clearly lays out the purpose of the act and clearly emphasizes positive financial incentives for utilities: "timely cost recovery," "ensuring that utility financial incentives are aligned with helping customers" and "provid[ing] timely earnings opportunities." The use of the term "incentives" by the General Assmebly evidences the

fact that they know how to provide “incentives” as well as “disincentives”, but for whatever reason did not provide any disincentives for failure to act by the utility itself, probably because the act is in and of itself voluntary in nature.

Section 393.1075.4 further evidences the lack of a mandate for any kind of Commission-imposed penalty language by stating “The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings.” Had the legislature wanted to require electric utilities to implement demand response programs, they would have made the language mandatory for the electric utilities to offer such programs instead of being permissive.

Thus, in addition to having “goals” not supported by competent and substantial evidence, we have an unlawful provision containing a “penalty” or “adverse consequence.” The only penalty authority we have is that expressly given us in Section 386.570 and any reference to the contrary should be removed.

III. Questions Regarding Cost Recovery:

From the consumer perspective, the most hotly contested issue in this rulemaking is the presence of the cost recovery language. Section 393.1075.3(1) unequivocally states that the commission shall provide utilities with “timely cost recovery” in support of valuing demand-side utility investments equal to traditional investments in supply and delivery infrastructure.

What does “timely cost recovery” mean? Here, the dispute is not over the concept of “cost recovery,” but what is “timely” in the context of cost recovery? Consumer advocates argued we are somehow violating the Supreme Court’s ban on single-issue ratemaking. The electric utilities would have preferred a surcharge mechanism similar to the “Infrastructure System Replacement Surcharge” (ISRS) used by gas utilities and one water company in St. Louis County. In the end, the Commission did include cost recovery language patterned after the fuel adjustment surcharge.

This is one part of the rule that I actually support. I would have preferred the ISRS approach because it would have provided the utilities with more timely cost recovery, but I can live with it going forward and did not find the briefs of the opposing parties persuasive on the single-issue ratemaking point.

To me, this issue hinges on the definition of the word “timely.” The word is not defined by case law, statute or rule, so we’re left with the Canons of Statutory Construction. The Canons say to give words their plain and ordinary meaning as found in the dictionary. Merriam-Webster’s On-line Dictionary offered several definitions of the word “timely.” When using the term as an adjective as used by the legislature in this case, two definitions jumped off the page: “coming early or at the right time” and “appropriate under the circumstances.”

As the legislature is often want to do, they have given the PSC wide latitude to decide how best to implement their directive. In this case, we’ve been instructed to phase in cost recovery for programs approved pursuant to Section 393.1075. Had they

wanted us to implement these charges in a rate case proceeding or by a tariff filing, they could have said so either expressly or implicitly. They didn't.

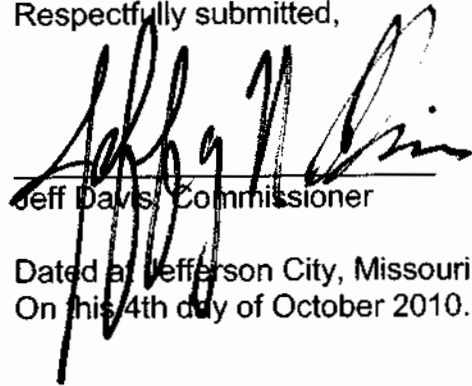
All relevant factors have to be considered in setting rates that are both just and reasonable. That being said I didn't find anything filed by the consumer advocates in this case to be persuasive on their point that what the Commission has done constitutes single-issue ratemaking. Likewise, I was not persuaded by the arguments of Ameren UE (now Ameren Missouri) and other parties in that company's previous rate case that in order to consider all relevant factors you have to spend eleven months analyzing three rounds of pre-filed testimony, two weeks of live testimony and two or three more rounds of briefings with an update to consider all relevant factors. Thus, based on the comments provided so far in this proceeding, I can find no evidence to persuade me that the Commission's chosen method of cost recovery in this rulemaking is unlawful. It's simply not the mechanism I would have chosen and I have grave concerns that removing these provisions would, in fact, violate Section 393.1075.3(1), which states the Commission "shall provide timely cost recovery for utilities" when approving these programs.

IV. Conclusion:

For the reasons set out above, I dissent with the Commission's decision to send these rules to the Secretary of State for publication. We should strip out the goals and have real proceedings for each of the affected utilities to determine what their energy and demand savings goals are. The penalty language associated with these goals is inconsistent with the statute and should be removed. Finally, the rate adjustment

mechanism used to implement these programs appears to be lawful, although not my favorite. "Timely cost recovery" is not meant to be instantaneous, but it shouldn't take 11 months or longer as some parties have suggested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Davis", is written over a horizontal line.

Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 4th day of October 2010.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

PROPOSED RULE

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms

PURPOSE: This rule allows the establishment and operation of Demand-Side Programs Investment Mechanisms (DSIM), which allow periodic rate adjustments related to recovery of costs and utility incentives for investments in demand-side programs.

(1) As used in this rule, the following terms mean:

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical resource manual on an annual basis;

(D) Annual report means a report of information concerning a utility's demand-side programs having the content described in 4 CSR 240-3.163(5);

(E) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs;

(F) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from energy savings and demand savings associated with generation, transmission, and distribution facilities. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(G) Baseline demand forecast means a reference forecast of summer and winter demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(H) Baseline energy forecast means a reference forecast of energy at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(I) Cost recovery component of a DSIM means the methodology approved by the commission in a demand-side program approval proceeding to allow recovery of costs of approved demand-side programs with interest;

(J) Demand means the rate of electric power use measured over an hour in kilowatts (kW);

(K) Demand response means measures that decrease peak demand or shift demand to off-peak periods;

(L) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(M) Demand-side programs investment mechanism, or DSIM, means a mechanism approved by the commission in a utility's filing for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;

2. Cost recovery of demand-side program costs through a demand-side program cost tracker;

3. Accelerated depreciation on demand-side investments;

4. Recovery of lost revenues; and

5. Utility incentive based on the achieved performance level of approved demand-side programs;

(N) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding or a semi-annual DSIM rate adjustment case;

(O) DSIM rate means the charge on customers' bills for the portion of the DSIM revenue requirement assigned by the commission to a rate class;

(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and the DSIM utility incentive revenue requirement, if allowed by the commission in utility's last filing for demand-side program approval;

(Q) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding to provide the utility with a portion of annual net shared benefits based on the achieved performance level of approved demand-side programs demonstrated through energy and demand savings measured and documented through EM&V reports compared to energy and demand savings targets;

(R) DSIM utility lost revenue requirement means the component of the utility's revenue requirement explicitly approved (if any) by the commission in a utility's filing for demand-side program approval proceeding to address the recovery of lost revenue;

(S) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(T) Energy means the total amount of electric power that is used by customers over a specified interval of time measured in kilowatt-hours (kWh);

(U) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(V) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(W) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;

(X) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094

Demand-Side Programs and measured and verified through EM&V;

(Y) Probable environmental cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility decision-makers, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its probable environmental costs;

(Z) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(AA) Staff means all commission employees, except the secretary of the commission, general counsel, technical advisory staff as defined by section 386.135, RSMo, hearing officer, or regulatory judge;

(BB) Statewide technical reference manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency and demand response;

(CC) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs and avoided probable environmental cost to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources;

(DD) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's demand-side program approval proceeding to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports; and

(EE) Utility market potential study means an evaluation and report by an independent third party of the energy savings and demand savings available in a utility's service territory broken down by customer class and major end-uses within each customer class.

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission to establish, continue, or modify a DSIM in a utility's demand-side program approval proceeding.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(2) in conjunction with an application to establish a DSIM and 4 CSR 240-3.163(3) in conjunction with an application to continue or modify a DSIM.

(B) Any party to the application for demand-side program approval proceeding may support or oppose the establishment, continuation, or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including, but not limited to, modifications to any electric utility's proposed DSIM.

(C) The commission shall approve the establishment, continuation, or modification of a DSIM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in energy and demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo, to—

1. Provide the electric utility with timely recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs;

2. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

3. Provide timely earnings opportunities associated with cost-effective measurable and/or verifiable energy and demand savings.

(D) In addition to any other changes in business risk experienced by the electric utility, the commission shall consider changes in the utility's business risk resulting from establishment, continuation, or modification of the DSIM in setting the electric utility's allowed return on equity in general rate proceedings.

(E) In determining to approve, modify, or continue a DSIM, the commission shall consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues, and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved program's impacts, any interaction among the various components of the DSIM that the utility may propose, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of cost recovery component, utility lost revenue component, and/or utility incentive component in the DSIM.

(F) Any cost recovery component of a DSIM shall be based on costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs. Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study and/or utility's portion of statewide technical reference manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall order any DSIM approval simultaneously with the programs approved in accordance with 4 CSR 240-20.094 or in a semi-annual DSIM rate adjustment case.

(G) Any utility lost revenue component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V.

1. The commission shall order any DSIM utility lost revenue requirement simultaneously with the programs approved in accordance with 4 CSR 240-20.094.

2. In a utility's demand-side program approval proceeding in which lost revenues are considered there is no requirement for any implicit or explicit lost revenue recovery or for a particular form of lost revenue component.

3. The commission may address lost revenues solely or in part, directly or indirectly, with a performance incentive mechanism.

4. Any explicit lost revenue component of DSIM shall be implemented on a retrospective basis and all energy and demand savings for claimed lost revenues must be measured and verified through EM&V prior to recovery.

(H) Any utility incentive component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and annual demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.

1. Annual energy and demand savings targets approved by the commission for use in the DSIM utility incentive component are not necessarily the same as the incremental annual energy and demand savings goals and cumulative annual energy and demand savings goals specified in 4 CSR 240-20.094(2).

2. The commission shall order any DSIM utility incentive revenue requirement simultaneously with the programs approved in accordance with 4 CSR 240-20.094.

(I) If the DSIM proposed by the utility includes adjustments to DSIM rates between general rate proceedings, the DSIM shall include a provision to adjust the DSIM rates every six (6) months to include a true-up for over- and under-collection of the DSIM revenue

requirement as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified, or deleted demand-side programs.

(J) If the commission approves a DSIM utility incentive component, such utility incentive component shall be binding on the commission for the entire term of the DSIM, and such DSIM shall be binding on the electric utility for the entire term of the DSIM, unless otherwise ordered or conditioned by the commission when approved.

(K) The commission shall apportion the DSIM revenue requirement to each customer class.

(3) Application for Discontinuation of a DSIM. The commission shall allow or require a DSIM to be discontinued or any component of a DSIM to be discontinued only after providing the opportunity for a hearing.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(4).

(B) Any party to the demand-side program approval proceeding may oppose the discontinuation of a DSIM or any component of a DSIM.

(C) In addition to any other changes in business risk experienced by the electric utility, the commission may take into account any change in business risk to the electric utility resulting from discontinuance of the DSIM in setting the electric utility's allowed return on equity in a general rate proceeding.

(D) If the utility requests that cost recovery be discontinued, in its notice to customers, the electric utility shall include a commission-approved description of why it believes the cost recovery component of the DSIM should be discontinued.

(4) Requirements for Semi-Annual Adjustments of DSIM Rates, if the Commission Approves Adjustments of DSIM Rates Between General Rate Proceedings. Semi-annual adjustments to DSIM rates between general rate proceedings shall only include adjustments to the DSIM cost recovery revenue requirement and shall not include any adjustments to the DSIM utility lost revenue requirement or the DSIM utility incentive revenue requirement. Adjustments to the DSIM cost recovery revenue requirement may reflect new and approved demand-side programs, approved program modifications, and/or approved program discontinuations. When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent demand-side program approval proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent demand-side program approval proceeding, the commission shall issue an interim rate adjustment order approving the tariff sheets and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent demand-side program approval proceeding, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision and approval.

(A) An electric utility with a DSIM shall file to adjust its DSIM rates once every six (6) months.

(B) The semi-annual adjustments to the DSIM rates shall reflect a comprehensive measurement of both increases and decreases to the DSIM cost recovery revenue requirement established in the most recent demand-side program approval proceeding or semi-annual DSIM rate adjustment case plus the change in DSIM cost recovery revenue requirement which occurred since the most recent demand-side program approval proceeding or semi-annual DSIM rate adjustment case.

(C) The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its annual reports as required in section (8) in order to increase the DSIM rates.

(D) If the staff, public counsel, or other party receives information which has not been submitted in compliance with 4 CSR 240-3.163(8), it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the information required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of 4 CSR 240-3.163(8), within ten (10) days of the request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by 4 CSR 240-3.163(8) and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i. e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown, the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with 4 CSR 240-3.163(8) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Implementation of DSIM. Once a DSIM is approved, modified, or discontinued by the commission, the utility shall use deferral accounting using the utility's latest approved weighted average cost of capital until the utility's next general rate proceeding. At the time of filing the general rate proceeding subsequent to DSIM approval, modification, or discontinuance the commission shall use an interim rate adjustment order to implement the approved, modified, or discontinued DSIM.

(A) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification or discontinuance of the DSIM, although an electric utility shall submit proposed tariff sheets to implement interim semi-annual adjustments to its DSIM rates between general rate proceedings.

(B) If the utility has an implemented DSIM, the electric utility shall file a general rate proceeding within four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.

(6) Disclosure on Customers' Bills. Regardless of whether or not the utility requests adjustments of its DSIM rates between general rate proceedings, any amounts charged under a DSIM approved by the commission, including any utility incentives allowed by the commission, shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to and approved by the commission before it appears on customers' bills.

(7) Evaluation, Measurement, and Verification (EM&V) of the Process and Impact of Demand-Side Programs. Each electric utility shall hire an independent contractor to perform and report EM&V of

each commission-approved demand-side program in accordance with 4 CSR 240-20.094 Demand-Side Programs. The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor.

(A) Each utility's EM&V budget shall not exceed five percent (5%) of the utility's total budget for all approved demand-side program costs.

(B) The cost of the commission's EM&V contractor shall—

1. Not be a part of the utility's budget for demand-side programs; and

2. Be included in the Missouri Public Service Commission Assessment for each utility.

(C) EM&V draft reports from the utility's contractor for each approved demand-side program shall be delivered simultaneously to the utility and to parties of the case in which the demand-side program was approved.

(D) EM&V final reports from the utility's contractor of each approved demand-side program shall—

1. Be completed by the EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(3); and

2. Be filed with the commission and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall use, if available, a commission approved statewide technical reference manual when performing EM&V work.

(8) Demand-Side Program Annual Report. Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than sixty (60) days after the end of each calendar year in the form and having the content provided for by 4 CSR 240-3.163(5) and serve a copy on each party to the case in which the programs were last established, modified, or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within sixty (60) days of its filing.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, public counsel, and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.163(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the DSIM.

(B) If the electric utility also has an approved environmental cost recovery mechanism or a fuel cost adjustment mechanism, the electric utility shall submit a single Surveillance Monitoring Report for all mechanisms.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.163(6), after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(10) Prudence Reviews. A prudence review of the costs subject to the DSIM shall be conducted no less frequently than at twenty-four (24)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for DSIM shall be established

in the utility's demand-side program approval proceeding in which the DSIM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, public counsel, or other party auditing the DSIM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's DSIM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

(11) Tariffs and Regulatory Plans. The provisions of this rule shall not affect—

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(12) Nothing in this rule shall preclude a complaint case from being filed, as provided by law.

(13) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(14) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: section 393.1075.11, RSMo Supp. 2009. Original rule filed Oct. 4, 2010.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost affected private entities nine hundred five thousand dollars (\$905,000) in year one, three hundred forty-two thousand five hundred dollars (\$342,500) in year two, four hundred fifty-five thousand dollars (\$455,000) in year three, and four hundred fifty-five thousand dollars (\$455,000) in year four.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the Missouri Register and should include a reference to Commission Case No. EX-2010-0368. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A

public hearing regarding this proposed rule is scheduled for Monday, December 20, 2010, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 20 - Electric Utilities

Rule Number and Title:	4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the first year cost of compliance with the rule by the affected entities:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities (years 2-4):
4	Investor-owned electric utilities	\$905,000	\$1,252,500

III. WORKSHEET

1. Estimated aggregate cost of compliance is based on information provided by the four (4) investor-owned electric utilities.
2. The estimated aggregate cost to Missouri electric utilities is provided for the first four (4) years as the rule contains language stating that the commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule.
3. 2010 dollars were used to estimate costs. No adjustment for inflation is applied.

IV. ASSUMPTIONS

If adopted, this proposed rule (along with proposed rules 4 CSR 240-3.163, 4 CSR 240-3.164 and 4 CSR 240-20.094) will enact the provisions of the Missouri Energy Efficiency Investment Act established by SB 376 (2009).

This rule allows the establishment and operation of Demand-Side Programs Investment Mechanisms (DSIM), which allow periodic rate adjustments related to recovery of costs and utility incentives for investments in demand-side programs

1. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company (KCPL/GMO) stated that the estimated fiscal impact includes costs

- associated with implementation of SB 376 excluding program costs of the demand-side programs. It is expected that the programs will be those programs defined in the company's Integrated Resource Plan filing made with the Missouri Public Service Commission. Costs attributable to this rule include analysis and filings to adjust DSIM rates (every 6 months), energy efficiency costs shown as a line item on customer's bills, annual reporting requirements, and annual Evaluation, Measurement and Verification (EM&V). In addition, KCPL/GMO anticipates the need for four (4) additional FTE and a data collection and tracking system.
- 2. Empire District Electric Company stated that they are providing a conservative estimate for the implementation of SB 376 as it relates to the Proposed Rule 4 CSR 240-20.093. Costs attributable to this rule include litigation and outside consultants, EM&V (Utility and Missouri Public Service Commission outside consultant), technical reference manual and prudence reviews.
- 3. AmerenUE estimated that 100% of their costs related SB 376 should be applied to the Proposed Rule 4 CSR 240-20.094. However, AmerenUE notes that there will be additional costs in the programming, legal, accounting and regulatory departments that are hard to quantify at this time. AmerenUE will have to make additional filings, develop accounting systems and an additional line item will need to be placed on the post card bill.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration and)
Implementation of Section 393.1075,) Case No. EX-2010-0368
the Missouri Energy Efficiency Investment Act)

DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT

The Public Service Commission (“Commission”) has voted to transmit to the Secretary of State proposed rules regarding Senate Bill 376, codified at Section 393.1075, RSMo Cum. Supp. 2009, and known as the Missouri Energy Efficiency Investment Act (“MEEIA” or “Act”). MEEIA represents a positive step forward in promoting energy efficiency. However, transmitting proposed rules to the Secretary of State at this time is premature because some of the provisions are either unconstitutional or unlawful. These legal concerns should be addressed before formal rulemaking begins. Therefore, I dissent.

Portions of the proposed rules unlawfully exceed the scope of the Act and can only result in rules that are unlawful, unjust, arbitrary, and capricious. The rules as currently drafted reflect regulatory policy choices that are detrimental to electric utilities and the customers they serve – rather than enhancing the opportunities for electric utilities to develop effective energy efficiency programs as anticipated by the Act.

Following the law and promulgating rules that are within the grant of authority given to the Commission is critical to achieving the goals set out in MEEIA. Making policy choices that exceed the scope of the Act will not serve Missouri's citizens; rather, it will cause the rules implementing this important piece of energy legislation to be snarled in expensive, time-

consuming and unnecessary legal entanglements. Even worse, the proposed rules as written will not encourage electric utilities to implement energy efficiency programs.

This Commission should propose lawful rules that will not only withstand the scrutiny of notice and comment, but also JCAR and the courts of this state. The proposed rules do not.

My concerns are not limited to those items outlined here, but the issues identified below are unlawful and do not merit transmittal to the Secretary of State. Senate Bill 376 stated unequivocally that it is the *“policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”* Section 393.1075.3. The portions of the rules that concern me are at odds with this stated policy.

1. **Rules are not mandatory.** Section 393.1075.11 provides: “The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section.” (emphasis added). The use of the word “may” by the General Assembly means that this Commission is not required to adopt any rules. The Act is sufficient standing alone to implement its purposes. Rather than adopt rules, the Commission could choose to exercise its oversight in other proceedings, such as rate cases. It follows that if this Commission chooses to adopt rules, it should take great care to ensure that such rules do not go beyond the scope of the law. Unfortunately, the proposed rules go beyond the scope of the law in at least two important respects.

2. **Energy and demand “savings goals.”** 4 CSR 240-20.094 (2)(A) and (B) establish energy and demand savings goals, increasing for each year between 2012 and 2020. Interested persons in the workshop and rulemaking process did not and cannot show that these

goals have any scientific basis or facts to support them, or are in any way relevant to Missouri's electric utilities. Instead, the percentages—by admission of the Commission staff—are based on statutory choices made in other states, rules or policy announcements. These other states do not have the same statutory or regulatory structure that we have in Missouri, so the goals do not translate to Missouri and our electric utilities.

This Commission is an agency of limited jurisdiction and authority, and the lawfulness of its actions depends entirely upon whether or not it has statutory authority to act. The General Assembly could have adopted set percentages of demand-side savings for each individual Missouri electric utility or it could have instructed the Commission to set such targets as part of its rulemaking authority (other states' statutes have done one or the other). Our General Assembly did neither. Instead, it stated simply that the programs need to be "cost-effective." There is no express or implied authority for the Commission to adopt standard savings goals in the regulations implementing MEEIA. These two subsections should be removed from the proposed rule altogether.

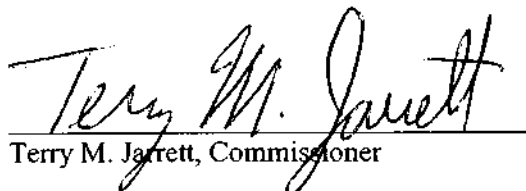
3. **Penalties.** 4 CSR 240-20.094 (2) establishes that if a participating electric utility does not meet the energy savings goals discussed above, then the electric utility may be subject to a penalty or other, undefined, adverse consequences. The Act provides no express or implied authorization for the imposition of penalties or adverse consequences; to the contrary, the Act is designed to incent electric utilities to create programs which result in decreased sales. This unlawful provision negates the positive attributes of the Act. Cost recovery and incentives fail to outweigh the wide ranging risks of incurring the penalties or adverse consequences possible from an electric utility participating under the Act. Why would an electric utility spend a large amount of money to implement an energy efficiency program when it would face the risk of a

penalty or other adverse consequences (such as negative treatment in a rate case) if arbitrary and unscientific goals are not achieved? The risk of penalties or adverse consequences stifle experimentation, creativity and innovation, three things that the Act was designed to encourage. The current language in 4 CSR 240-20.094 (2) goes beyond the Commission's statutory authority, works against the General Assembly's mandate to incent electric utilities to implement energy efficiency programs, and should be stricken from the rule.

Conclusion

The proposed rules as currently written do not enable or encourage electric utilities to achieve the purposes of the Act. They need more work to bring them into compliance with the law. Therefore, they should not be transmitted to the Secretary of State until the unlawful provisions have been removed.

Sincerely,



Terry M. Jarrett, Commissioner

Submitted this 28th day of September, 2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Consideration and)
Implementation of Section 393.1075, the)
Missouri Energy Efficiency Investment Act.)

File No. EX-2010-0368

DISSENT OF COMMISSIONER JEFF DAVIS **TO PUBLISH RULES IMPLEMENTING THE MISSOURI** **ENERGY EFFICIENCY INVESTMENT ACT**

I dissent fully with my colleagues in the reasoning and decision to transmit the proposed “energy efficiency” rules to the Secretary of State. My disagreement is not with what my colleagues are trying to do, but with the way they are going about it.

There are three major issues with regard to this rulemaking: (1) the presence of “energy and demand ‘savings goals’” in 4 CSR 240-20.094(2)(A) and (B); (2) the penalty language prescribed in 4 CSR 240-20.094(2); and (3) the legality of the cost recovery mechanism.

I. The discussion of energy and demand savings goals...

With regard to the energy and demand “savings goals” outlined in 4 CSR 240 20.094(2)(A) and (B), it is my opinion that these goals are not supported by competent and substantial evidence.

I am not opposed to this Commission establishing energy and demand savings goals. I must oppose adopting a standard based on the standards set by other states around us without competent and substantial evidence adduced in the hearing process to support the goals we have adopted and further approving language that could be used to penalize utilities for failure to meet those targets beginning in 2012.

When establishing goals of this nature and attaching a penalty thereto for non-compliance, we need to take evidence in support of those goals and the parties supplying that evidence need to be subject to cross-examination. A one-size fits all goal might be fine for an entity like the state of Missouri, but it may not be feasible for an individual utility. A wide range of factors, especially weather, can affect a utility's ability to meet these goals. An evidentiary hearing would be the only way to get to the truth of the matter by establishing an appropriate record on which standards could be based. Now, utilities are going to be put in the unenviable task of having to prove themselves innocent in front of the Commission if they are unable to comply with goals established without hearing or evidence, but they'll sure "sound good" when we read them in the newspaper.

Of equal or even greater concern to me is the stakeholder process by which the PSC Staff assembled these rules. More interest groups and parties are intervening in PSC cases and taking positions in rulemakings than ever before. Public concern for the environment and rising rates in a weak economy is understandable, but we also have to be wary that many of these special interest groups have their own agendas that include selling products and services as well as achieving certain environmental goals that are not necessarily aligned with keeping the rates low or the lights on.

Throughout the stakeholder process in developing these rules, the utilities did not appear to be on equal footing with the other stakeholder groups. As an observer of the process, it was my impression that all a stakeholder had to do to get something in the rule was convince a majority of the other stakeholders to vote with them. The effect is to send the wrong message to intervenors and participants – just get a bunch of your

buddies to come in, support your position no matter how absurd it may be and you'll get something out of the deal.

That's my impression of what happened here. When the utilities opposed a proposal, the PSC Staff would attempt to split the difference between the two factions. The PSC Staff is in a tough spot and performed admirably in this regard, but the problem is the same one that has been manifesting itself in rate cases for the last several years – "splitting the difference" between two positions often causes parties to take increasingly outrageous positions in an effort to gain a more favorable outcome.

It's important to remember that utilities are the ones responsible for keeping the lights on and delivering heat to people's homes. As such, they are not entitled to preferential treatment by this Commission; however, they should be entitled to due process including the ability to present evidence and cross-examine witnesses regarding the goals we are setting for them.

Several parties were quick to point out that there is a wealth of information on this issue available, but other than comparing what is being published to what other states have enacted, there was no evidence in the record to support the goals being transmitted to the Secretary of State for publication are appropriate for the affected utilities. Further, there is no support whatsoever for the language contained in Sections 4 CSR 240-20.094(2)(A)(9) and (2)(B)(9) that contain annual default percentage goal reductions after the year 2020.

In conclusion, I am fine with setting goals for energy and demand savings by the respective utilities, but they need to be based on this Commission's findings and not findings in another state. Those goals should be established in an actual case here at

the PSC where all interested parties have an opportunity to have witnesses present evidence under oath and be subject to cross-examination. It is the only way to know whether we're getting truly honest answers from the parties. Anything less than that, particularly where there are penalties attached, is arbitrary and capricious.

II. Penalties for failure to comply with Section 4 CSR 240-20.094(2):

Section 4 CSR 240-20.094(2) states in pertinent part:

The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may impact the utility's DSIM revenue requirement but is not by itself sufficient grounds to assess a penalty or adverse consequence for poor performance.

Alternatively, I read this sentence to say: "The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may be combined with any other factor to assess a penalty or impose adverse consequences on a utility for performance."

I was shocked and troubled that no utility offered any comment on this last-minute piece of wordsmithing. Arguably, the language is better than some of the other language that was proposed; however, it still leaves much to be desired.

It is important to remember that the PSC is a creature of statute and the case law is clear our powers are only those expressly conferred or clearly implied by statute. Section 393.1075 does not give us the authority to establish demand reduction and energy savings goals. Arguably, we might have that authority under other sections of law, but those sections are not being cited in this case. More importantly, Section 393.1075 contains no support for "penalties" or "adverse consequences."

Section 393.1075 contains only one reference to any kind of penalty that can be imposed pursuant to the statute. In Section 393.1075.14(3), the statute provides “The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor.” The express language of this provision emphasizes the point that if the legislature had wanted to penalize utilities for failing to comply with this act, they had ample opportunity to do so and affirmatively chose not to act.

Further, this language is inconsistent with the positive language used by the Missouri General Assembly in Section 393.1075.3, which states the purpose of the legislation:

It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

One must presume the legislature knew what it was doing when enacting this law. This section clearly lays out the purpose of the act and clearly emphasizes positive financial incentives for utilities: “timely cost recovery,” “ensuring that utility financial incentives are aligned with helping customers” and “provid[ing] timely earnings opportunities.” The use of the term “incentives” by the General Assmbeley evidences the

fact that they know how to provide “incentives” as well as “disincentives”, but for whatever reason did not provide any disincentives for failure to act by the utility itself, probably because the act is in and of itself voluntary in nature.

Section 393.1075.4 further evidences the lack of a mandate for any kind of Commission-imposed penalty language by stating “The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings.” Had the legislature wanted to require electric utilities to implement demand response programs, they would have made the language mandatory for the electric utilities to offer such programs instead of being permissive.

Thus, in addition to having “goals” not supported by competent and substantial evidence, we have an unlawful provision containing a “penalty” or “adverse consequence.” The only penalty authority we have is that expressly given us in Section 386.570 and any reference to the contrary should be removed.

III. Questions Regarding Cost Recovery:

From the consumer perspective, the most hotly contested issue in this rulemaking is the presence of the cost recovery language. Section 393.1075.3(1) unequivocally states that the commission shall provide utilities with “timely cost recovery” in support of valuing demand-side utility investments equal to traditional investments in supply and delivery infrastructure.

What does “timely cost recovery” mean? Here, the dispute is not over the concept of “cost recovery,” but what is “timely” in the context of cost recovery? Consumer advocates argued we are somehow violating the Supreme Court’s ban on single-issue ratemaking. The electric utilities would have preferred a surcharge mechanism similar to the “Infrastructure System Replacement Surcharge” (ISRS) used by gas utilities and one water company in St. Louis County. In the end, the Commission did include cost recovery language patterned after the fuel adjustment surcharge.

This is one part of the rule that I actually support. I would have preferred the ISRS approach because it would have provided the utilities with more timely cost recovery, but I can live with it going forward and did not find the briefs of the opposing parties persuasive on the single-issue ratemaking point.

To me, this issue hinges on the definition of the word “timely.” The word is not defined by case law, statute or rule, so we’re left with the Canons of Statutory Construction. The Canons say to give words their plain and ordinary meaning as found in the dictionary. Merriam-Webster’s On-line Dictionary offered several definitions of the word “timely.” When using the term as an adjective as used by the legislature in this case, two definitions jumped off the page: “coming early or at the right time” and “appropriate under the circumstances.”

As the legislature is often want to do, they have given the PSC wide latitude to decide how best to implement their directive. In this case, we’ve been instructed to phase in cost recovery for programs approved pursuant to Section 393.1075. Had they

wanted us to implement these charges in a rate case proceeding or by a tariff filing, they could have said so either expressly or implicitly. They didn't.

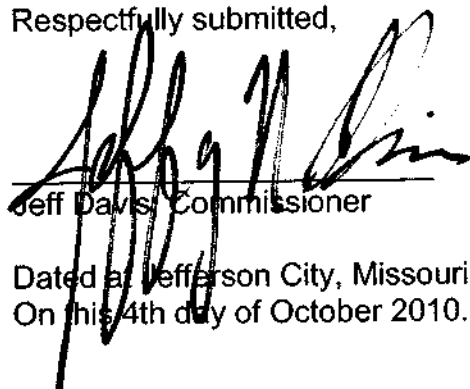
All relevant factors have to be considered in setting rates that are both just and reasonable. That being said I didn't find anything filed by the consumer advocates in this case to be persuasive on their point that what the Commission has done constitutes single-issue ratemaking. Likewise, I was not persuaded by the arguments of Ameren UE (now Ameren Missouri) and other parties in that company's previous rate case that in order to consider all relevant factors you have to spend eleven months analyzing three rounds of pre-filed testimony, two weeks of live testimony and two or three more rounds of briefings with an update to consider all relevant factors. Thus, based on the comments provided so far in this proceeding, I can find no evidence to persuade me that the Commission's chosen method of cost recovery in this rulemaking is unlawful. It's simply not the mechanism I would have chosen and I have grave concerns that removing these provisions would, in fact, violate Section 393.1075.3(1), which states the Commission "shall provide timely cost recovery for utilities" when approving these programs.

IV. Conclusion:

For the reasons set out above, I dissent with the Commission's decision to send these rules to the Secretary of State for publication. We should strip out the goals and have real proceedings for each of the affected utilities to determine what their energy and demand savings goals are. The penalty language associated with these goals is inconsistent with the statute and should be removed. Finally, the rate adjustment

mechanism used to implement these programs appears to be lawful, although not my favorite. "Timely cost recovery" is not meant to be instantaneous, but it shouldn't take 11 months or longer as some parties have suggested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Davis", is written over a horizontal line.

Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 4th day of October 2010.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

PROPOSED RULE

4 CSR 240-20.094 Demand-Side Programs

PURPOSE: This rule sets forth the definitions, requirements, and procedures for filing and processing applications for approval, modification, and discontinuance of electric utility demand-side programs. This rule also sets forth requirements and procedures related to customer opt-out, tax credits, monitoring customer incentives, and collaborative guidelines for demand-side programs.

(1) As used in this rule, the following terms mean:

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical reference manual on an annual basis;

(D) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from energy savings and demand savings associated with generation, transmission, and distribution facilities. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(E) Baseline demand forecast means a reference forecast of annual summer and winter peak demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(F) Baseline energy forecast means a reference forecast of annual energy at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(G) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;

(H) Demand means the rate of electric power use over an hour measured in kilowatts (kW);

(I) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(J) Demand-side programs investment mechanism, or DSIM, means a mechanism approved by the commission in a utility's filing

for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;
2. Cost recovery of demand-side program costs through a demand-side program cost tracker;
3. Accelerated depreciation on demand-side investments;
4. Recovery of lost revenues; and
5. Utility incentive based on the achieved performance level of approved demand-side programs;

(K) Demand-side program plan means a particular combination of demand-side programs to be delivered according to a specified implementation schedule and budget;

(L) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding or a semi-annual DSIM rate adjustment case;

(M) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval proceeding to provide the utility with a portion of annual net shared benefits based on the achieved performance level of approved demand-side programs demonstrated through energy and demand savings measured and documented through EM&V reports compared to energy and demand savings targets;

(N) DSIM utility lost revenue requirement means the component of the utility's revenue requirement explicitly approved (if any) by the commission in a utility's filing for demand-side program approval proceeding to address the recovery of lost revenue;

(O) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(P) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh);

(Q) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(R) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(S) Interruptible or curtailable rate means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(T) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net retail kWh below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(U) Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted by the utility's decision-makers in accordance with 4 CSR 240-22;

(V) Probable environmental cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its probable environmental costs;

(W) Staff means all commission employees, except the secretary of the commission, general counsel, technical advisory staff as defined by section 386.135, RSMo, hearing officer, or regulatory judge;

(X) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs plus avoided probable environmental cost to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply-side resources; and

(Y) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's demand-side program approval proceeding to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports.

(2) Guideline to Review Progress Toward an Expectation that the Electric Utility's Demand-Side Programs Can Achieve a Goal of all Cost-Effective Demand-Side Savings. The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may impact the utility's DSIM revenue requirement but is not by itself sufficient grounds to assess a penalty or adverse consequence for poor performance.

(A) The commission shall use the greater of the annual realistic achievable energy savings and demand savings as determined through the utility's market potential study or the following incremental annual demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;
2. For 2013: five-tenths percent (0.5%) of total annual energy and one percent (1.0%) of annual peak demand;
3. For 2014: seven-tenths percent (0.7%) of total annual energy and one percent (1.0%) of annual peak demand;
4. For 2015: nine-tenths percent (0.9%) of total annual energy and one percent (1.0%) of annual peak demand;
5. For 2016: one-and-one-tenth percent (1.1%) of total annual energy and one percent (1.0%) of annual peak demand;
6. For 2017: one-and-three-tenths percent (1.3%) of total annual energy and one percent (1.0%) of annual peak demand;
7. For 2018: one-and-five-tenths percent (1.5%) of total annual energy and one percent (1.0%) of annual peak demand;
8. For 2019: one-and-seven-tenths percent (1.7%) of total annual energy and one percent (1.0%) of annual peak demand; and
9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: one-and-nine-tenths percent (1.9%) of total annual energy and one percent (1.0%) of annual peak demand each year:

(B) The commission shall also use the greater of the cumulative realistic achievable energy savings and demand savings as determined through the utility's market potential study or the following cumulative demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;
2. For 2013: eight-tenths percent (0.8%) of total annual energy and two percent (2.0%) of annual peak demand;
3. For 2014: one-and-five-tenths percent (1.5%) of total annual energy and three percent (3.0%) of annual peak demand;
4. For 2015: two-and-four-tenths percent (2.4%) of total annual energy and four percent (4.0%) of annual peak demand;
5. For 2016: three-and-five-tenths percent (3.5%) of total annual energy and five percent (5.0%) of annual peak demand;

6. For 2017: four-and-eight-tenths percent (4.8%) of total annual energy and six percent (6.0%) of annual peak demand;

7. For 2018: six-and-three-tenths percent (6.3%) of total annual energy and seven percent (7.0%) of annual peak demand;

8. For 2019: eight percent (8.0%) of total annual energy and eight percent (8.0%) of annual peak demand; and

9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: nine-and-nine-tenths percent (9.9%) of total annual energy and nine percent (9.0%) of annual peak demand for 2020, and then increasing by one-and-nine-tenths percent (1.9%) of total annual energy and by one percent (1.0%) of annual peak demand each year after 2020.

(3) Applications for Approval of Electric Utility Demand-Side Programs or Program Plans. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission for approval of demand-side programs or program plans by filing information and documentation required by 4 CSR 240-3.164(2). Any existing demand-side program with tariff sheets in effect prior to the effective date of this rule shall be included in the initial application for approval of demand-side programs if the utility intends for unrecovered and/or new costs related to the existing demand-side program be included in the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and/or if the utility intends to establish a DSIM utility incentive revenue requirement for the existing demand-side program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (120) days of the filing of an application under this section only after providing the opportunity for a hearing. In the case of a utility filing an application for approval of an individual demand-side program, the commission shall approve, approve with modification acceptable to the electric utility, or reject applications within sixty (60) days of the filing of an application under this section only after providing the opportunity for a hearing.

(A) For demand-side programs and program plans that have a total resource cost test ratio greater than one (1), the commission shall approve demand-side programs or program plans, and annual demand and energy savings targets for each demand-side program it approves, provided it finds that the utility has met the filing and submission requirements of 4 CSR 240-3.164(2) and the demand-side programs and program plans—

1. Are consistent with a goal of achieving all cost-effective demand-side savings;
2. Have reliable evaluation, measurement, and verification plans; and
3. Are included in the electric utility's preferred plan or have been analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of the demand-side programs and program plans on the net present value of revenue requirements of the electric utility.

(B) The commission shall approve demand-side programs having a total resource cost test ratio less than one (1) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the utility has met the filing and submission requirements of 4 CSR 240-3.164(2), the program or program plan is in the public interest, and meets the requirements stated in paragraphs (3)(A)2.–3.

1. If a program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the expected and actual effect of the program on the utility's bad debt expenses, customer arrearages, and disconnections.

(C) The commission shall approve demand-side programs which have a total resource cost test ratio less than one (1), if the commission finds the utility has met the filing and submission requirements of 4 CSR 240-3.164(2) and the costs of such programs above the level determined to be cost-effective are funded by the customers

participating in the programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in paragraphs (3)(A)2. and 3.

(D) Utilities shall file and receive approval of associated tariff sheets prior to implementation of approved demand-side programs.

(E) The commission shall simultaneously approve, approve with modification acceptable to the utility, or reject the utility's DSIM proposed pursuant to 4 CSR 240-20.093.

(4) Applications for Approval of Modifications to Electric Utility Demand-Side Programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission for modification of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(4) when there is a variance of twenty percent (20%) or more in the approved demand-side program annual budget and/or any program design modification which is no longer covered by the approved tariff sheets for the program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of modification of demand-side programs within thirty (30) days of the filing of an application under this section, subject to the same guidelines as established in subsections (3)(A) through (C), only after providing the opportunity for a hearing.

(A) For any program design modifications approved by the commission, the utility shall file for and receive approval of associated tariff sheets prior to implementation of approved modifications.

(5) Applications for Approval to Discontinue Electric Utility Demand-Side Programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to discontinue demand-side programs by filing information and documentation required by 4 CSR 240-3.164(5). The commission shall approve or reject such applications for discontinuation of utility demand-side programs within thirty (30) days of the filing of an application under this section only after providing an opportunity for a hearing.

(6) Provisions for Customers to Opt-Out of Participation in Utility Demand-Side Programs.

(A) Any customer meeting one (1) or more of the following criteria shall be eligible to opt-out of participation in utility-offered demand-side programs:

1. The customer has one (1) or more accounts within the service territory of the electric utility that has a demand of the individual accounts of five thousand (5,000) kW or more in the previous twelve (12) months;

2. The customer operates an interstate pipeline pumping station, regardless of size; or

3. The customer has accounts within the service territory of the electric utility that have, in aggregate across its accounts, a coincident demand of two thousand five hundred (2,500) kW or more in the previous twelve (12) months, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

A. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the customer coincident highest billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

(B) Written notification of opt-out from customers meeting the criteria under paragraph (6)(A)1. or 2. shall be sent to the utility serving the customer. Written notification of opt-out from customers meeting the criteria under paragraph (6)(A)3. shall be sent to the utility serving the customer and the manager of the energy resource analysis section of the commission or submitted through the commission's electronic filing and information system (EFIS) as a non-

case-related filing. In instances where only the utility is provided notification of opt-out from customers meeting the criteria under paragraph (6)(A)3., the utility shall forward a copy of the written notification to the manager of the energy resource analysis section of the commission and submit the notice of opt-out through EFIS as a non-case-related filing.

(C) Written notification of opt-out from customer shall include at a minimum:

1. Customer's legal name;

2. Identification of location(s) and utility account number(s) of accounts for which the customer is requesting to opt-out from demand-side program's benefits and costs; and

3. Demonstration that the customer qualifies for opt-out.

(D) For customers filing notification of opt-out under paragraph (6)(A)1. or 2., notification of the utility's acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered in writing to the customer and to the staff within thirty (30) days of when the utility received the written notification of opt-out from the customer.

(E) For customers filing notification of opt-out under paragraph (6)(A)3., the staff will make the determination of whether the customer meets the criteria of paragraph (6)(A)3. Notification of the staff's acknowledgement or disagreement with customer's qualification to opt-out of participation in demand-side programs shall be delivered to the customer and to the utility within thirty (30) days of when the staff received the written notification of opt-out.

(F) Timing and Effect of Opt-Out Provisions. A customer notice shall be received by the utility no earlier than September 1 and not later than October 30 to be effective for the following calendar year. For that calendar year and each successive calendar year until the customer revokes the notice pursuant to subsection (6)(H), none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093, 4 CSR 240-20.094, 4 CSR 240-3.163, and 4 CSR 240-3.164 or by other authority and no other charges implemented in accordance with section 393.1075, RSMo, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(G) Dispute Notices. If the utility or staff provides notice that a customer does not meet the opt-out criteria to qualify for opt-out, the customer may file a complaint with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(H) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission fourteen (14) to sixteen (16) months in advance of the calendar year for which it will become eligible for the utility's demand-side program's costs and benefits.

(I) A customer who participates in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of three (3) years following the last date when the customer received a demand-side incentive or a service.

(J) A customer electing not to participate in an electric utility's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric utility.

(7) Tax Credits and Monetary Incentives.

(A) Any customer of an electric utility who has received a state tax credit under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.561, RSMo, shall not be eligible for participation in any demand-side program offered by a utility if such program offers the customer a monetary incentive to participate.

(B) As a condition of participation in any demand-side program offered by an electric utility under this section, when such program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (7)(A) and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor. The electric utility shall maintain documentation of customer attestation and acknowledgement for

the term of the demand-side program and three (3) years beyond.

(C) The electric utility shall maintain a database of participants of all demand-side programs offered by the utility when such programs offer a monetary incentive to the customer including the following information:

1. The name of the participant, or the names of the principals if for a company;
2. The service property address; and
3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission or staff, the utility shall disclose participant information in subsections (7)(B) and (C) to the commission and/or staff.

(8) Collaborative Guidelines.

(A) Utility-Specific Collaboratives. Each electric utility and its stakeholders are encouraged to form a utility-specific advisory collaborative for input on the design, implementation, and review of demand-side programs as well as input on the preparation of market potential studies. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are encouraged to occur at least once each calendar quarter.

(B) State-Wide Collaboratives. Electric utilities and their stakeholders are encouraged to form a state-wide advisory collaborative to: 1) address the creation of a technical reference manual that includes values for deemed savings, 2) provide the opportunity for the sharing, among utilities and other stakeholders, of lessons learned from demand-side program planning and implementation, and 3) create a forum for discussing state-wide policy issues. Collaborative meetings are encouraged to occur at least once each calendar year. Staff shall provide notice of the statewide collaborative meetings and interested persons may attend such meetings.

(9) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(10) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: sections 393.1075.11 and 393.1075.15, RSMo Supp. 2009. Original rule filed Oct. 4, 2010.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost affected private entities \$1,920,000 in year one, \$1,320,000 in year two, \$1,320,000 in year three, and \$1,320,000 in year four.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices within thirty (30) days after publication of this notice in the **Missouri Register** and should include a reference to Commission Case No. EX-2010-0368. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for Monday, December 20, 2010, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or*

in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: *Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 20 - Electric Utilities

Rule Number and Title:	4 CSR 240-20.094 Demand-Side Programs
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the first year cost of compliance with the rule by the affected entities:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities (years 2-4):
4	Investor-owned electric utilities	\$1,920,000	\$3,960,000

III. WORKSHEET

1. Estimated aggregate cost of compliance is based on information provided by the four (4) investor-owned electric utilities.
2. The estimated aggregate cost to Missouri electric utilities is provided for the first four (4) years as the rule contains language stating that the commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule.
3. 2010 dollars were used to estimate costs. No adjustment for inflation is applied.

IV. ASSUMPTIONS

If adopted, this proposed rule (along with proposed rules 4 CSR 240-3.163, 4 CSR 240-3.164 and 4 CSR 240-20.093) will enact the provisions of the Missouri Energy Efficiency Investment Act established by SB 376 (2009).

This rule sets forth the definitions, requirements and procedures for filing and processing applications for approval, modification, and discontinuance of electric utility demand-side programs. This rule also sets forth requirements and procedures related to customer opt-out, tax credits, monitoring customer incentives and collaborative guidelines for demand-side programs.

1. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company (KCPL/GMO) stated that the estimated fiscal impact includes an estimate of the costs associated with implementation of SB 376 excluding program costs of the demand-side programs. It is expected that the programs will be those programs defined in the company's Integrated Resource Plan filing made with the Missouri Public Service Commission. Costs attributable to this rule include opt-out administration, state-wide technical reference manual, accounting systems, and customer bill revisions.
2. Empire District Electric Company stated that they are providing a conservative estimate for the implementation of SB 376 as it relates to the Proposed Rule 4 CSR 240-20.094. Costs attributable to this rule include litigation and outside consultants, and database management.
3. AmerenUE estimates a cost of approximately \$1 million per year. However, AmerenUE notes that there will be additional costs in the programming, legal, accounting and regulatory departments that are hard to quantify at this time. AmerenUE will have to make additional filings, develop accounting systems and an additional line item will need to be placed on the post card bill.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration and)
Implementation of Section 393.1075,) Case No. EX-2010-0368
the Missouri Energy Efficiency Investment Act)

DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT

The Public Service Commission (“Commission”) has voted to transmit to the Secretary of State proposed rules regarding Senate Bill 376, codified at Section 393.1075, RSMo Cum. Supp. 2009, and known as the Missouri Energy Efficiency Investment Act (“MEEIA” or “Act”). MEEIA represents a positive step forward in promoting energy efficiency. However, transmitting proposed rules to the Secretary of State at this time is premature because some of the provisions are either unconstitutional or unlawful. These legal concerns should be addressed before formal rulemaking begins. Therefore, I dissent.

Portions of the proposed rules unlawfully exceed the scope of the Act and can only result in rules that are unlawful, unjust, arbitrary, and capricious. The rules as currently drafted reflect regulatory policy choices that are detrimental to electric utilities and the customers they serve – rather than enhancing the opportunities for electric utilities to develop effective energy efficiency programs as anticipated by the Act.

Following the law and promulgating rules that are within the grant of authority given to the Commission is critical to achieving the goals set out in MEEIA. Making policy choices that exceed the scope of the Act will not serve Missouri's citizens; rather, it will cause the rules implementing this important piece of energy legislation to be snarled in expensive, time-

consuming and unnecessary legal entanglements. Even worse, the proposed rules as written will not encourage electric utilities to implement energy efficiency programs.

This Commission should propose lawful rules that will not only withstand the scrutiny of notice and comment, but also JCAR and the courts of this state. The proposed rules do not.

My concerns are not limited to those items outlined here, but the issues identified below are unlawful and do not merit transmittal to the Secretary of State. Senate Bill 376 stated unequivocally that it is the *“policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”* Section 393.1075.3. The portions of the rules that concern me are at odds with this stated policy.

1. **Rules are not mandatory.** Section 393.1075.11 provides: “The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section.” (emphasis added). The use of the word “may” by the General Assembly means that this Commission is not required to adopt any rules. The Act is sufficient standing alone to implement its purposes. Rather than adopt rules, the Commission could choose to exercise its oversight in other proceedings, such as rate cases. It follows that if this Commission chooses to adopt rules, it should take great care to ensure that such rules do not go beyond the scope of the law. Unfortunately, the proposed rules go beyond the scope of the law in at least two important respects.

2. **Energy and demand “savings goals.”** 4 CSR 240-20.094 (2)(A) and (B) establish energy and demand savings goals, increasing for each year between 2012 and 2020. Interested persons in the workshop and rulemaking process did not and cannot show that these

goals have any scientific basis or facts to support them, or are in any way relevant to Missouri's electric utilities. Instead, the percentages—by admission of the Commission staff—are based on statutory choices made in other states, rules or policy announcements. These other states do not have the same statutory or regulatory structure that we have in Missouri, so the goals do not translate to Missouri and our electric utilities.

This Commission is an agency of limited jurisdiction and authority, and the lawfulness of its actions depends entirely upon whether or not it has statutory authority to act. The General Assembly could have adopted set percentages of demand-side savings for each individual Missouri electric utility or it could have instructed the Commission to set such targets as part of its rulemaking authority (other states' statutes have done one or the other). Our General Assembly did neither. Instead, it stated simply that the programs need to be "cost-effective." There is no express or implied authority for the Commission to adopt standard savings goals in the regulations implementing MEEIA. These two subsections should be removed from the proposed rule altogether.

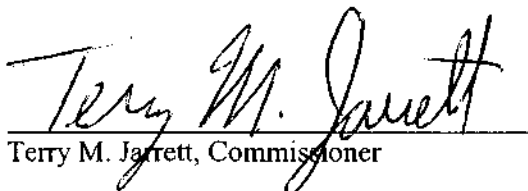
3. **Penalties.** 4 CSR 240-20.094 (2) establishes that if a participating electric utility does not meet the energy savings goals discussed above, then the electric utility may be subject to a penalty or other, undefined, adverse consequences. The Act provides no express or implied authorization for the imposition of penalties or adverse consequences; to the contrary, the Act is designed to incent electric utilities to create programs which result in decreased sales. This unlawful provision negates the positive attributes of the Act. Cost recovery and incentives fail to outweigh the wide ranging risks of incurring the penalties or adverse consequences possible from an electric utility participating under the Act. Why would an electric utility spend a large amount of money to implement an energy efficiency program when it would face the risk of a

penalty or other adverse consequences (such as negative treatment in a rate case) if arbitrary and unscientific goals are not achieved? The risk of penalties or adverse consequences stifle experimentation, creativity and innovation, three things that the Act was designed to encourage. The current language in 4 CSR 240-20.094 (2) goes beyond the Commission's statutory authority, works against the General Assembly's mandate to incent electric utilities to implement energy efficiency programs, and should be stricken from the rule.

Conclusion

The proposed rules as currently written do not enable or encourage electric utilities to achieve the purposes of the Act. They need more work to bring them into compliance with the law. Therefore, they should not be transmitted to the Secretary of State until the unlawful provisions have been removed.

Sincerely,



Terry M. Jarrett, Commissioner

Submitted this 28th day of September, 2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Consideration and)
Implementation of Section 393.1075, the)
Missouri Energy Efficiency Investment Act.)

File No. EX-2010-0368

DISSENT OF COMMISSIONER JEFF DAVIS **TO PUBLISH RULES IMPLEMENTING THE MISSOURI** **ENERGY EFFICIENCY INVESTMENT ACT**

I dissent fully with my colleagues in the reasoning and decision to transmit the proposed “energy efficiency” rules to the Secretary of State. My disagreement is not with what my colleagues are trying to do, but with the way they are going about it.

There are three major issues with regard to this rulemaking: (1) the presence of “energy and demand ‘savings goals’” in 4 CSR 240-20.094(2)(A) and (B); (2) the penalty language prescribed in 4 CSR 240-20.094(2); and (3) the legality of the cost recovery mechanism.

I. The discussion of energy and demand savings goals...

With regard to the energy and demand “savings goals” outlined in 4 CSR 240 20.094(2)(A) and (B), it is my opinion that these goals are not supported by competent and substantial evidence.

I am not opposed to this Commission establishing energy and demand savings goals. I must oppose adopting a standard based on the standards set by other states around us without competent and substantial evidence adduced in the hearing process to support the goals we have adopted and further approving language that could be used to penalize utilities for failure to meet those targets beginning in 2012.

When establishing goals of this nature and attaching a penalty thereto for non-compliance, we need to take evidence in support of those goals and the parties supplying that evidence need to be subject to cross-examination. A one-size fits all goal might be fine for an entity like the state of Missouri, but it may not be feasible for an individual utility. A wide range of factors, especially weather, can affect a utility's ability to meet these goals. An evidentiary hearing would be the only way to get to the truth of the matter by establishing an appropriate record on which standards could be based. Now, utilities are going to be put in the unenviable task of having to prove themselves innocent in front of the Commission if they are unable to comply with goals established without hearing or evidence, but they'll sure "sound good" when we read them in the newspaper.

Of equal or even greater concern to me is the stakeholder process by which the PSC Staff assembled these rules. More interest groups and parties are intervening in PSC cases and taking positions in rulemakings than ever before. Public concern for the environment and rising rates in a weak economy is understandable, but we also have to be wary that many of these special interest groups have their own agendas that include selling products and services as well as achieving certain environmental goals that are not necessarily aligned with keeping the rates low or the lights on.

Throughout the stakeholder process in developing these rules, the utilities did not appear to be on equal footing with the other stakeholder groups. As an observer of the process, it was my impression that all a stakeholder had to do to get something in the rule was convince a majority of the other stakeholders to vote with them. The effect is to send the wrong message to intervenors and participants – just get a bunch of your

buddies to come in, support your position no matter how absurd it may be and you'll get something out of the deal.

That's my impression of what happened here. When the utilities opposed a proposal, the PSC Staff would attempt to split the difference between the two factions. The PSC Staff is in a tough spot and performed admirably in this regard, but the problem is the same one that has been manifesting itself in rate cases for the last several years – "splitting the difference" between two positions often causes parties to take increasingly outrageous positions in an effort to gain a more favorable outcome.

It's important to remember that utilities are the ones responsible for keeping the lights on and delivering heat to people's homes. As such, they are not entitled to preferential treatment by this Commission; however, they should be entitled to due process including the ability to present evidence and cross-examine witnesses regarding the goals we are setting for them.

Several parties were quick to point out that there is a wealth of information on this issue available, but other than comparing what is being published to what other states have enacted, there was no evidence in the record to support the goals being transmitted to the Secretary of State for publication are appropriate for the affected utilities. Further, there is no support whatsoever for the language contained in Sections 4 CSR 240-20.094(2)(A)(9) and (2)(B)(9) that contain annual default percentage goal reductions after the year 2020.

In conclusion, I am fine with setting goals for energy and demand savings by the respective utilities, but they need to be based on this Commission's findings and not findings in another state. Those goals should be established in an actual case here at

the PSC where all interested parties have an opportunity to have witnesses present evidence under oath and be subject to cross-examination. It is the only way to know whether we're getting truly honest answers from the parties. Anything less than that, particularly where there are penalties attached, is arbitrary and capricious.

II. Penalties for failure to comply with Section 4 CSR 240-20.094(2):

Section 4 CSR 240-20.094(2) states in pertinent part:

The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may impact the utility's DSIM revenue requirement but is not by itself sufficient grounds to assess a penalty or adverse consequence for poor performance.

Alternatively, I read this sentence to say: "The fact that the electric utility's demand-side programs do not meet the incremental or cumulative annual demand-side savings goals established in this section may be combined with any other factor to assess a penalty or impose adverse consequences on a utility for performance."

I was shocked and troubled that no utility offered any comment on this last-minute piece of wordsmithing. Arguably, the language is better than some of the other language that was proposed; however, it still leaves much to be desired.

It is important to remember that the PSC is a creature of statute and the case law is clear our powers are only those expressly conferred or clearly implied by statute. Section 393.1075 does not give us the authority to establish demand reduction and energy savings goals. Arguably, we might have that authority under other sections of law, but those sections are not being cited in this case. More importantly, Section 393.1075 contains no support for "penalties" or "adverse consequences."

Section 393.1075 contains only one reference to any kind of penalty that can be imposed pursuant to the statute. In Section 393.1075.14(3), the statute provides “The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor.” The express language of this provision emphasizes the point that if the legislature had wanted to penalize utilities for failing to comply with this act, they had ample opportunity to do so and affirmatively chose not to act.

Further, this language is inconsistent with the positive language used by the Missouri General Assembly in Section 393.1075.3, which states the purpose of the legislation:

It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

- (1) Provide timely cost recovery for utilities;**
- (2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers’ incentives to use energy more efficiently; and**
- (3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.**

One must presume the legislature knew what it was doing when enacting this law. This section clearly lays out the purpose of the act and clearly emphasizes positive financial incentives for utilities: “timely cost recovery,” “ensuring that utility financial incentives are aligned with helping customers” and “provid[ing] timely earnings opportunities.” The use of the term “incentives” by the General Assmebly evidences the

fact that they know how to provide “incentives” as well as “disincentives”, but for whatever reason did not provide any disincentives for failure to act by the utility itself, probably because the act is in and of itself voluntary in nature.

Section 393.1075.4 further evidences the lack of a mandate for any kind of Commission-imposed penalty language by stating “The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings.” Had the legislature wanted to require electric utilities to implement demand response programs, they would have made the language mandatory for the electric utilities to offer such programs instead of being permissive.

Thus, in addition to having “goals” not supported by competent and substantial evidence, we have an unlawful provision containing a “penalty” or “adverse consequence.” The only penalty authority we have is that expressly given us in Section 386.570 and any reference to the contrary should be removed.

III. Questions Regarding Cost Recovery:

From the consumer perspective, the most hotly contested issue in this rulemaking is the presence of the cost recovery language. Section 393.1075.3(1) unequivocally states that the commission shall provide utilities with “timely cost recovery” in support of valuing demand-side utility investments equal to traditional investments in supply and delivery infrastructure.

What does “timely cost recovery” mean? Here, the dispute is not over the concept of “cost recovery,” but what is “timely” in the context of cost recovery? Consumer advocates argued we are somehow violating the Supreme Court’s ban on single-issue ratemaking. The electric utilities would have preferred a surcharge mechanism similar to the “Infrastructure System Replacement Surcharge” (ISRS) used by gas utilities and one water company in St. Louis County. In the end, the Commission did include cost recovery language patterned after the fuel adjustment surcharge.

This is one part of the rule that I actually support. I would have preferred the ISRS approach because it would have provided the utilities with more timely cost recovery, but I can live with it going forward and did not find the briefs of the opposing parties persuasive on the single-issue ratemaking point.

To me, this issue hinges on the definition of the word “timely.” The word is not defined by case law, statute or rule, so we’re left with the Canons of Statutory Construction. The Canons say to give words their plain and ordinary meaning as found in the dictionary. Merriam-Webster’s On-line Dictionary offered several definitions of the word “timely.” When using the term as an adjective as used by the legislature in this case, two definitions jumped off the page: “coming early or at the right time” and “appropriate under the circumstances.”

As the legislature is often want to do, they have given the PSC wide latitude to decide how best to implement their directive. In this case, we’ve been instructed to phase in cost recovery for programs approved pursuant to Section 393.1075. Had they

wanted us to implement these charges in a rate case proceeding or by a tariff filing, they could have said so either expressly or implicitly. They didn't.

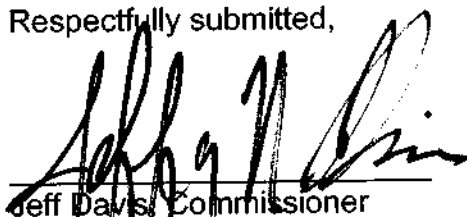
All relevant factors have to be considered in setting rates that are both just and reasonable. That being said I didn't find anything filed by the consumer advocates in this case to be persuasive on their point that what the Commission has done constitutes single-issue ratemaking. Likewise, I was not persuaded by the arguments of Ameren UE (now Ameren Missouri) and other parties in that company's previous rate case that in order to consider all relevant factors you have to spend eleven months analyzing three rounds of pre-filed testimony, two weeks of live testimony and two or three more rounds of briefings with an update to consider all relevant factors. Thus, based on the comments provided so far in this proceeding, I can find no evidence to persuade me that the Commission's chosen method of cost recovery in this rulemaking is unlawful. It's simply not the mechanism I would have chosen and I have grave concerns that removing these provisions would, in fact, violate Section 393.1075.3(1), which states the Commission "shall provide timely cost recovery for utilities" when approving these programs.

IV. Conclusion:

For the reasons set out above, I dissent with the Commission's decision to send these rules to the Secretary of State for publication. We should strip out the goals and have real proceedings for each of the affected utilities to determine what their energy and demand savings goals are. The penalty language associated with these goals is inconsistent with the statute and should be removed. Finally, the rate adjustment

mechanism used to implement these programs appears to be lawful, although not my favorite. "Timely cost recovery" is not meant to be instantaneous, but it shouldn't take 11 months or longer as some parties have suggested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Davis", is written over a horizontal line.

Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 4th day of October 2010.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 123—Modular Units**

PROPOSED AMENDMENT

4 CSR 240-123.080 Code for Modular Units. The commission is amending section (3).

PURPOSE: The amendment establishes the new codes for modular units.

(3) The structure shall be manufactured in accordance with and meet the requirements of the following building codes: **except as provided in subsections (A) and (B) below, International Building Code-[2006/2009; International Plumbing Code-[2006/2009; International Mechanical Code-[2006/2009; International Residential Code-[2006/2009; International Fuel Gas Code-[2006/2009; and National Electric Code NFPA-[2005/2008.** Manufacturers will have six (6) months in which to update to the new code after the effective date of this rule as notified by the director for all units built on or after that date. The referenced codes do not include any later amendments or additions. (For a copy of the [2006/2009 International Code publication, contact the International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795. For a copy of the *National Electric Code*, contact the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02169-7471.)

(A) The requirement under section R313.2 of the 2009 *International Residential Code* requiring one (1)- and two (2)-family dwellings to be constructed with an automatic fire protection system shall not be mandatory; and

(B) Effective January 1, 2011, every dealer or manufacturer who sells a modular home to be placed in Missouri shall be required to have the purchaser of such modular unit sign and date an acknowledgement that the dealer or manufacturer has offered the fire sprinkler system in conjunction with the sale of the home. Such acknowledgement shall be contained in or attached to the purchase agreement or sales contract. The acknowledgement must be signed by both the purchaser and the dealer or manufacturer or his/her legal representative. The purchaser of a modular unit is responsible for the cost of any fire sprinkler system installed in the home.

AUTHORITY: section[s] 700.010, RSMo Supp. 2009 and section 700.040, RSMo 2000. Original rule filed Aug. 16, 1979, effective Dec. 15, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 4, 2010.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 125—Manufactured Home Installers**

PROPOSED RULE

4 CSR 240-125.090 Dispute Resolution

PURPOSE: To establish, pursuant to section 700.689, RSMo, a manufactured housing dispute resolution program to promote the timely resolution of disputes among manufacturers, dealers, and installers of manufactured homes.

(1) After completion of an initial inspection of a manufactured home, a dispute resolution process may be initiated in order to resolve disputes between the manufacturer, the dealer, and the installer of the home. This process may be initiated at the request of the director, or upon a manufacturer, dealer, or installer having submitted to the director a written request within fourteen (14) days after receipt of the director's initial inspection report.

(2) All dispute resolutions shall be conducted at the site of the manufactured home, unless determined by the director to be unreasonable or impracticable to do so. Upon the decision to initiate the dispute resolution process or upon receipt of a written request to do so, the director shall notify in writing all parties of the time and place of the dispute resolution. In attempting to schedule the dispute resolution, the director shall make a good faith effort to consider the input of the parties, provided that in any case where a deficiency is determined by the director to be an imminent safety hazard or to constitute a serious structural defect, an immediate hearing may be scheduled at the sole discretion of the director. The homeowner shall have the right to attend the dispute resolution, to provide input at the request of the director, and to be informed of the outcome.

(3) The manufacturer, dealer, and installer shall be required to attend the dispute resolution at the time and place determined by the director. Any party who fails to attend the dispute resolution shall be deemed to have waived its right to provide input in the process.

(4) Each inspection item in dispute shall be discussed at the dispute resolution. All parties shall be given the opportunity to present their position in respect to disputed items. The parties shall also discuss with the director a timeline for completion of any disputed items and work to reach an agreement thereon.

(5) Within ten (10) days of the dispute resolution, the director shall send to the parties a final inspection report that identifies which party has been determined by the director to be responsible for repairing the items originally in dispute. This final inspection report shall also include a date by which the required repairs shall be completed.

(6) Reasonable extensions to the required completion dates may be granted by the director under circumstances including, but not limited to, impracticability due to weather or the ability of a party to obtain engineering or permit approvals.

(7) If the repairs are not completed by the original or duly-extended deadline, the director may file a formal complaint with the commission.

AUTHORITY: section 700.689, RSMo Supp. 2009. Original rule filed Oct. 4, 2010.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement including reference to Case No. MX-2011-0064 in support of or in opposition to this proposed rule with the Public Service Commission,

Steve C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, Missouri 65102. Comments may also be submitted by using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.868 Not-for-Profit Civic, Social, Service or Fraternal Organizations—Criteria for Exemption. This rule set forth the criteria which must be met by an organization in order to claim sales tax exemption as a not-for-profit civic, social, service, or fraternal organization.

PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-110.955 Sales and Purchases—Exempt Organizations.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Jan. 16, 1990, effective June 28, 1990. Rescinded: Filed Oct. 7, 2010.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.884 Basic Steelmaking Exemption—Sales Tax. This rule explained the circumstances under which the purchases of electricity and gas by basic steelmakers are exempt from sales/use tax and the procedure for obtaining a basic steelmaking exemption.

PURPOSE: This rule is being rescinded because section 144.036, RSMo has expired (L. 2007 S.B. 613 Revision).

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Nov. 15, 1990, effective June 10, 1991. Rescinded: Filed Oct. 7, 2010.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.886 Exemption For Construction Materials Sold to Exempt Entities. This rule interpreted the sales tax law as it applied to construction materials sold to certain exempt entities pursuant to section 144.062, RSMo.

PURPOSE: This rule is being rescinded because it has been replaced with 12 CSR 10-112.010 Contractors.

AUTHORITY: sections 144.062 and 144.270, RSMo 1994. Emergency rule filed Oct. 16, 1991, effective Oct. 26, 1991, expired Feb. 22, 1992. Original rule filed June 18, 1991, effective Jan. 13, 1992. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed: Oct. 7, 2010.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.896 Auctioneers, Brokers and Agents. This rule interpreted the sales tax law as it applied to sales of tangible personal property where an auctioneer, broker, or agent is involved in the sale.

PURPOSE: This rule is being rescinded because it has been replaced with 12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 28, 1995, effective May 30, 1996. Rescinded: Filed: Oct. 7, 2010.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 2—Performance Measures**

PROPOSED AMENDMENT

13 CSR 30-2.010 Prosecuting Attorneys' Performance Standards. The department is amending subsections (1)(B) and (1)(C) and sections (2) and (5).

PURPOSE: This amendment redefines the state agency as the Family Support Division of the Missouri Department of Social Services as opposed to the Division of Child Support Enforcement and establishes new standards by which the performance of the office of each county prosecuting attorney will be evaluated in determining whether sanctions affecting cooperative agreements between the county and the Missouri Department of Social Services, Family Support Division shall be imposed.

PURPOSE: This rule establishes [the] additional standards by which the performance of the office of each county prosecuting attorney will be evaluated in determining whether sanctions affecting cooperative agreements between the county and the Missouri [Division of Child Support Enforcement] Family Support Division shall be imposed.

(1) Definitions. As used in this regulation—

(B) Division means the [Division of Child Support Enforcement (DCSE)] **Family Support Division**;

(C) Director means the person serving as director of the Missouri [Division of Child Support Enforcement] **Family Support Division**;

(2) Performance Requirements Standards for All Counties on Cases Referred by the Division.

(A) *[Upon the receipt of a status report request from the division, the prosecuting attorney shall furnish the requested information regarding the status of the case within fifteen (15) calendar days from the date the prosecuting attorney receives the request; provided, however, if the prosecuting attorney's response requires additional information from the division, the prosecuting attorney shall furnish the requested information within fifteen (15) calendar days of receipt of the required additional information from the division. No response shall be required earlier than sixty (60) calendar days from receipt of the initial referral by the prosecuting attorney or from a previous status report request.]* The county shall complete all necessary actions and achieve successful completion of all requested actions as defined by subsections (1)(G), (1)(I), and (1)(M) of this rule within sixty (60) calendar days after the county accepts any referral from the division. A failure to comply with the terms contained in subsections (1)(G), (1)(I), or (1)(M) shall be deemed a failure to comply with this subsection (2)(A) only.

(B) *[The prosecuting attorney shall notify the division of the conclusion of all legal action in a referred case within fifteen (15) calendar days of the conclusion. The sending of the legal documents filed in the case will constitute sufficient notification.]* In all cases needing support order establishment, regardless of whether paternity has been established, the county shall complete action to establish support orders from the

date of service of process to the time of disposition within one (1) year. The term "disposition," as used herein, shall include an order of support or genetic exclusion of all alleged fathers referred.

(C) *[The prosecuting attorney shall complete all necessary actions and achieve successful completion of all requested actions within sixty (60) calendar days after the prosecuting attorney receives the referral from the division.]* The time frames contained in subsection (2)(A) of this rule shall be tolled for those time periods during which the prosecuting attorney has requested information from the division that is essential to the successful completion of the requested action; or time periods in which the custodian does not cooperate with the prosecuting attorney and the client's cooperation is essential to the successful completion of the requested action, provided the prosecuting attorney has documented the date the noncooperation occurred and the reason for determination of noncooperation in the Missouri Automated Child Support System (MACSS). Tolling due to noncooperation shall terminate only upon the custodian's affirmative action that is essential to the successful completion of the requested action. The prosecuting attorney (PA) shall document the date the affirmative action occurred and the reason for determination of cooperation in MACSS.

(D) *[In all cases needing support order establishment, regardless of whether paternity has been established—*

1. *The prosecuting attorney shall complete action to establish support orders from the date of service of process to the time of disposition within the following time frames:*

A. *Seventy-five percent (75%) in six (6) months; and*

B. *Ninety percent (90%) in twelve (12) months; and*

2. *The case may be counted as a success within the six (6)-month tier of the time frame, regardless of when disposition occurs in the twelve (12)-month period following service of process, in cases in which the prosecuting attorney uses long-arm jurisdiction and disposition occurs within twelve (12) months of service of process on the alleged father or noncustodial parent.]* If a support order needs to be established in a case and an order is established in accordance with Missouri Supreme Court Rule 88.01 during the audit period, the county will be considered to have taken appropriate action in that case for audit purposes regardless of whether the requirements of subsection (A) of this section have been met.

(E) *[The prosecuting attorney shall return any referral to the division immediately upon discovery that there exists a potential or actual conflict of interest between the prosecuting attorney and any party to the case. The return of the referral by the prosecuting attorney under this subsection shall constitute a successful completion.]* If the requested action is an enforcement action and an action is taken, in addition to a federal and state income tax refund offset, which results in a collection during the audit period, the county will be considered to have taken appropriate action in the case for audit purposes regardless of whether the requirements of subsection (A) of this section have been met.

(F) *[The prosecuting attorney shall return a referral to the division within fifteen (15) calendar days after receiving the division's request for return.]* In all petitions filed with the court for the establishment of child support orders, the prosecuting attorney shall request an order for medical support.

(G) *[In all cases where the prosecuting attorney has obtained blood testing paid for by the division, either directly or through county reimbursement, the prosecuting attorney, in addition to obtaining a declaration of paternity and order for child support, shall seek judgment against the non-custodial parent for recovery of the amounts paid for the blood testing except in cases where the putative father has been excluded.]* If a prosecuting attorney determines that no appropriate legal remedy is available on a case, that case shall be

dropped from the audit sample of a compliance review conducted based on the requirements of 13 CSR 30-2.010(2).

(H) *[In all cases in which the court or administrative authority dismisses a petition for a support order without prejudice, the prosecuting attorney, at the time of dismissal, shall examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future. The prosecuting attorney will notify the division of this determination within fifteen (15) calendar days.]* The prosecuting attorney shall notify the division of the conclusion of all requested actions by documenting the conclusion in the Missouri Automated Child Support System and sending to the division any supporting documentation that provides information regarding the disposition of the referral within twenty (20) calendar days of the supporting documentation being received by the PA.

(I) *In all cases in which enforcement attempts have been unsuccessful, at the time an attempt to enforce fails, the prosecuting attorney shall examine the reason the enforcement attempt failed and determine when it would be appropriate to take an enforcement action in the future and document the case file accordingly. If the referral subsequently is returned to the division, the prosecuting attorney shall notify the division of the determination.*

(J) *In all cases where the prosecuting attorney is seeking to establish a support obligation, s/he shall apply the child support guidelines as stated in Supreme Court Rule 88.01. The prosecuting attorney shall notify the division of any deviation from the guidelines.*

(K) *In all cases requiring that a petition be filed in another state under the Uniform Interstate Family Support Act (UIFSA), the prosecuting attorney shall file the UIFSA petition within fourteen (14) calendar days after receiving the referral from the division and, if appropriate, receipt of any necessary information needed to process the case.*

(L) *The time frames contained in subsections (2)(C) and (K) of this rule shall be tolled for those time periods during which the client does not cooperate with the prosecuting attorney, provided the prosecuting attorney has documented the noncooperation in the file.*

(M) *In all cases involving a modification of a judicial order for child support, the prosecuting attorney shall initiate action within sixty (60) calendar days of the receipt of the referral from the division and after that shall proceed with due diligence. Initiate action means any substantive action by the prosecuting attorney reasonably calculated to further a significant purpose on the referred case.*

(N) *Notwithstanding the time frames contained in subsection (2)(C) of this rule—*

1. *If a support order needs to be established in a case and an order is established in accordance with Missouri Supreme Court Rule 88.01 during the audit period the prosecuting attorney will be considered to have taken appropriate action in that case for audit purposes; and*

2. *If the requested action is an enforcement action and an action is taken, in addition to federal and state income tax refund offset, which results in a collection received during the audit period, the prosecuting attorney will be considered to have taken appropriate action in the case for audit purposes.*

(O) *In all petitions filed with the court for the establishment of child support orders, the prosecuting attorney shall request an order for medical support.]*

(5) Performance Requirements.

(A) The following are mandatory requirements by which prosecuting attorneys' actions on referred cases shall be evaluated:

1. *[The prosecuting attorney shall provide services and take all appropriate actions on referred cases according to*

current division policy and procedures. Waivers of this provision may be granted by the director but are not effective unless granted in writing and are not effective retroactively unless specifically set forth by the director as being permissibly applied retroactively for a specified time period;] The county shall provide services on referred cases according to federal and state statutes and regulations, and cooperative agreement requirements, including those related to financial reimbursement for services provided on referred cases. Failure to do so shall be deemed failure to comply with this rule and this provision. Waivers of this provision may be granted by the division director but are not effective unless granted in writing and are not effective retroactively unless specifically set forth by the director as being permissibly applied retroactively for a specified time period;

2. *[The prosecuting attorney must achieve substantial compliance with the performance requirements set forth in this rule concerning actions taken on referred cases, transmittal of required notices and information to the division, return of case referrals and meeting time requirements in so doing. Substantial compliance means that the prosecuting attorney has achieved the same case quality standards for those activities for which s/he is contractually responsible, as are required by the division of the state-administered child support enforcement offices;]* The county shall cooperate with compliance reviews conducted by the division pursuant to the requirements of 13 CSR 30-2.010(2), which will occur no more frequently than semi-annually. Upon completion of the compliance review, the division shall submit a draft compliance review results summary to the county. The county shall have the right to submit written rebuttals of this review to the manager of the division compliance review section within thirty (30) days of receiving the review results. The division shall then have sixty (60) days in which to submit, in writing, its decision on each and every case rebutted to the county. The county shall then have fifteen (15) days to submit, in writing, the division's rebuttal decisions for review *de novo* by the division's deputy director of field operations. After review *de novo*, the final decision of the division shall be issued within thirty (30) days. Either party may request in writing an extension of the time frames contained herein;

3. *[The prosecuting attorney must allow and cooperate with a semi-annual case review by the division. In cases where this review cannot be performed by the division due to lack of adequate documentation, the prosecuting attorney shall be considered to have failed to comply with this provision;]* The division will otherwise retain authority to conduct special audits and take appropriate action based on the special audit. The division will also retain the authority to discuss with the prosecuting attorney the actions taken in all cases that have been referred to the county and take other remedies as the division determines is appropriate; and

4. *[The prosecuting attorney shall comply with all duties and responsibilities set forth in the county cooperative agreement. Failure to do so shall be deemed failure to comply with this rule and this provision; and]* The county shall achieve substantial compliance with the performance requirements set forth in this regulation concerning actions taken on referred cases and meeting time requirements in so doing. Substantial compliance means that the county has achieved the same case quality standards for those activities for which it is responsible, as are required by the division of its child support offices.

5. *The prosecuting attorney shall comply with all federal and state laws and regulations in the performance of the services requested by the division, including those related to financial reimbursement for the services provided on referred cases. Failure to comply with applicable federal and state laws and regulations shall be deemed a violation of this rule*

and this provision.]

AUTHORITY: section 454.400.2(5), RSMo 2000. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Oct. 15, 2010.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Family Support Division, Alyson Campbell, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2234—Board of Private Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.050 Fees. The board is proposing to add subsection (4)(C).

PURPOSE: This amendment establishes the exam fee.

(4) The following miscellaneous fees are established as follows:

(C) **Exam fee** **\$ 80**

AUTHORITY: sections 324.1102 and 324.1132, RSMo Supp. [2008] 2009. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Oct. 8, 2010.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately three thousand eight hundred twenty-nine dollars and forty-one cents to three thousand eight hundred thirty-eight dollars and seventeen cents (\$3,829.41–\$3,838.17) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately eight thousand dollars (\$8,000) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Private Investigator Examiners, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-0878, or via email at pi@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2234 - Board of Private Investigator Examiners

Chapter 1 - General Rules

Proposed Amendment - 20 CSR 2234-1.050 Fees

Prepared March 18, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance
Board of Private Investigator Examiners	\$3,829.41 to \$3,838.17
	Total Biennial Cost of Compliance for the Life of the Rule \$3,829.41 to \$3,838.17

III. WORKSHEET

The Senior Office Support Assistant provides support to the Executive Director, performs complex clerical functions and supervises staff. The Executive Director serves as the senior executive officer of the licensing agency.

Personal Service Dollars

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	NUMBER OF ITEMS	TOTAL COST
Executive Director	\$51,156 to \$53,292	\$76,095 to \$79,272	\$36.58 to \$38.11	\$0.61 to \$0.64	2 minutes	\$1.22 to \$1.27	125 Applicants	\$152.43 to \$158.80
Senior Office Support Assistant	\$24,576 to \$25,380	\$36,557 to \$37,753	\$17.58 to \$18.15	\$0.29 to \$0.30	2 minutes	\$0.59 to \$0.61	125 Applicants	\$73.23 to \$75.63
Total Personal Service Costs								\$225.66 to \$234.42

Expense and Equipment Dollars

Item	Cost	Quantity	Total Cost Per Item
Application Mailing	\$7.35	125	\$918.75
Exam Development (one time fee)	\$2,685.00	1	\$2,685.00
Total Expense and Equipment Costs			\$3,603.75

IV. ASSUMPTION

1. Employees' salaries were calculated using the annual salary multiplied by 48.75% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications.
2. An Application Mailing includes a 2 page application, 1 instruction sheet, law book, envelope, and postage.
3. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The division is statutorily obligated to enforce and administer the provisions of sections 324.1100 to 324.1148, RSMo. Pursuant to section 324.1102, RSMo, the division is responsible for establishing fees by rule so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the division for administering the provisions of sections 324.1100 to 324.1148, RSMo.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2234 - Board of Private Investigator Examiners

Chapter 1 - General Rules

Proposed Amendment - 20 CSR 2234-1.050 Fees

Prepared March 18, 2010 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost savings of compliance with the amendment by affected entities:
100	Applicants Required to sit for the Examination for Licensure (Exam Fee @ \$80.00)	\$8,000.00
	Estimated Biennial Cost of Compliance for the Life of the Rule	\$8,000.00

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The figures reported above are based on FY10 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The private entity fees are set at a level so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the division of administering the provisions of sections 324.110-324.1148, RSMo.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 11—Wildlife Code: Special Regulations for
Department Areas**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-11.130 Vehicles, Bicycles, Horses, and Horseback Riding is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2010 (35 MoReg 1246). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 270—Early Childhood Education**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 178.691–178.699, RSMo 2000 and section 161.092, RSMo Supp. 2009, the board amends a rule as follows:

5 CSR 50-270.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2010 (35 MoReg 1019–1021). Changes have been made in the text of the *Early Childhood Development Act Program Guidelines and Administrative Manual*, which is incorporated by reference. Changes have been made to the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after the publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Education (board) received ten (10) letters of comment, which contained twenty-two (22) comments, on this proposed amendment after an internal review.

COMMENT #1: The board received two (2) comments regarding the General Administrative Requirements, Reimbursement Standards, Recruitment of the incorporated by reference material. The commenters suggest the five percent (5%) of appropriation allocated for recruitment and group meetings should be changed to “up to five percent.”

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #2: The board received a comment regarding the Parent Educator Information, Certification and Renewal Process for Parent Educators Prenatal to Kindergarten Entry of the incorporated by reference material. The commenter finds it difficult to budget sending staff to conferences or trainings to receive five (5) hours of professional development outside of the district.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has provided additional information in the incorporated by reference material, *Early Childhood Development Act Program Guidelines and Administrative Manual*, to broaden the possibilities of available professional development.

COMMENT #3: The board received three (3) comments regarding the incorporated by reference material. The commenters find the changes strengthening the program and providing more flexibility to meet the needs of a diversified population.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #4: The board received two (2) comments regarding the General Administrative Requirements, Reimbursement Standards, Recruitment of the incorporated by reference material. The commenters expressed concern about record keeping for the recruitment and group meeting reimbursement.

RESPONSE: The board has considered the comments and has decided to make no change to the rule or the incorporated by reference material as a result of these comments.

COMMENT #5: The board received a comment regarding the Parent Education Services for Families Prenatal to Kindergarten Entry, Curriculum of the incorporated by reference material. The commenter would like to change “It correlates with child development

from prenatal to age three and age three to kindergarten entry;" to be changed to "prenatal to kindergarten entry."

RESPONSE: The board has considered the comment and has decided to make no change to the rule as a result of this comment. The curriculum and curriculum training is prenatal to age three (3) and age three (3) to kindergarten entry.

COMMENT #6: The board received six (6) comments regarding the incorporated by reference material. The commenters would like to retain group meetings as reimbursable contacts.

RESPONSE: The board considered the comments and has decided to make no changes to the rule or the incorporated by reference material as a result of these comments.

COMMENT #7: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Basic Services, and Reimbursement Notes of the incorporated by reference material. The commenter would like to provide services per child rather than per family, with ten (10) lesson plans for two (2) children over the program year.

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment. This request would be permissible within the incorporated by reference material.

COMMENT #8: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, High Needs Contacts of the incorporated by reference material. The commenter would like to allow high needs visits to begin prenatally.

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment. This request would be permissible within the incorporated by reference material.

COMMENT #9: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Prenatal Services of the incorporated by reference material. The commenter would like to increase the number of prenatal visits offered from two (2) to five (5).

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment. This request would be permissible within the incorporated by reference material.

COMMENT #10: The board received two (2) comments regarding the Screening, Screening Schedule of the incorporated by reference material. The commenters are concerned that a full screening cannot be provided in conjunction with a personal visit or a group meeting.

RESPONSE: The board has considered the comments and has decided to make no change to the rule or the incorporated by reference material as a result of these comments. The screening protocol has not changed. A full screening with a personal visit or a group meeting has not been allowable.

COMMENT #11: The board received a comment regarding the Goals and Outcomes of the incorporated by reference material. The commenter would like to add the following to the goals: "To prepare children for success in school and in life."

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #12: The board received a comment regarding the Goals and Outcomes of the incorporated by reference material. The commenter would like to add the following to the expected outcomes:

"Increased readiness for kindergarten; Increased academic achievement in elementary school."

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #13: The board received a comment regarding the Goals and Outcomes of the incorporated by reference material. The commenter would like to delete the following from the expected outcomes: "Reduction of the negative effects of labeling children;"

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #14: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Basic Services of the incorporated by reference material. The commenter expressed concern about requiring programs to offer monthly contacts to families with a minimum of five (5) personal visits. This will be difficult as programs face budget constraints and less funding from the state.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #15: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Reimbursement Notes of the incorporated by reference material. The commenter asked if a visit with two (2) children, two (2) lesson plans will be reimbursed for two (2) contacts.

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment. This request would be permissible within the incorporated by reference material.

COMMENT #16: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Reimbursement Notes of the incorporated by reference material. The commenter is unclear if the reimbursement for high needs for two (2) or more children will be at the high needs rate for the initial visit or only the additional contacts.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to delete the word "additional" in reference to high needs family contacts and the note regarding two (2) or more eligible children in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*. The incorporated by reference material changes the reimbursement rate for high needs families to begin with the initial visit.

COMMENT #17: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Prenatal Services of the incorporated by reference material. The commenter agrees with the increase in prenatal services for non-high needs families.

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment.

COMMENT #18: The board received a comment regarding the General Administrative Requirements, Reimbursement Standards, Recruitment of the incorporated by reference material. The commenter was concerned about the recruitment reimbursement being allocated to one (1) district where a hospital is located even though the hospital serves families in many school districts.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has provided up to five percent (5%) of appropriation allocated for recruitment and group meetings in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*. The allocations are designated by school district, not hospital.

COMMENT #19: The board received a comment regarding the Parent Education for Families with Children Prenatal to Kindergarten Entry, Service Delivery, Basic Services, Reimbursement Notes, High Needs Contacts, Prenatal Services, and Teen Services of the incorporated by reference material. The commenter would like a reduction of services as follows:

families with children prenatal to three (3) years old five (5) basic contacts

families with children three (3) to kindergarten entry two (2) basic contacts

families with a high needs characteristic eighteen to twenty (18–20) contacts

teens unchanged

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment.

COMMENT #20: The board received a comment regarding rates of the incorporated by reference material. The commenter would like to increase the reimbursement rates to fifty-five dollars (\$55) for basic service and sixty dollars (\$60) for beyond basic service.

RESPONSE: The board has considered the comment and has decided to make no change to the rule or the incorporated by reference material as a result of this comment.

COMMENT #21: The board received a comment regarding the Community-Based Planning and Recruitment Model, Internal Coordinating Committee of the incorporated by reference material. The commenter would like to include parents in the Internal Coordinating Committee.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comment and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*.

COMMENT #22: The board received a comment regarding the Community-Based Planning and Recruitment Model of the incorporated by reference material. The commenter would like to revise the section headings in the community-based planning and recruitment model. The commenter would delete the “phases.” The headings in this section should read as follows:

Key Administrator

Internal Coordinating Committee

Community Advisory Committee

Recruiting Participants

Generating Community Support through Media Campaign

Evaluating Program Performance

RESPONSE AND EXPLANATION OF CHANGE: The board considered the comments and has agreed to change the wording in the incorporated by reference material *Early Childhood Development Act Program Guidelines and Administrative Manual*. The board is revising subsection (1)(B) pertaining to the revision date.

5 CSR 50-270.010 General Provisions Governing Programs Authorized Under the Early Childhood Development Act

(1) All programs and projects carried out by school districts under the Early Childhood Development Act (ECDA) shall be conducted in conformity with—

(B) The state *Early Childhood Development Act Program Guidelines and Administrative Manual*, revised April 2010, which is

incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education (DESE) and is available at the Early Childhood Education Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480 or on DESE’s website. This rule does not incorporate any subsequent amendments or additions. The *Early Childhood Development Act Program Guidelines and Administrative Manual* interprets state statutory requirements for the programs and establishes program management procedures consistent with state law and practice.

Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue

Chapter 24—Driver License Bureau Rules

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.181, 302.171, 302.182, 302.184, and 194.225, RSMo Supp. 2009, the director amends a rule as follows:

12 CSR 10-24.430 Back of Driver License, Permits, and Nondriver License **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1100–1102). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue

Chapter 24—Driver License Bureau Rules

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 302.184, RSMo Supp. 2009, the director adopts a rule as follows:

12 CSR 10-24.480 Boater Identification Indicator on Driver or Nondriver License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1103–1105). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue

Chapter 24—Driver License Bureau Rules

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 302.182, RSMo Supp. 2009, the director adopts a rule as follows:

12 CSR 10-24.485 Permanent Disability Indicator on Driver or Nondriver License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1106–1107). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director rescinds a rule as follows:

22 CSR 10-2.070 Coordination of Benefits **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1124). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.070 Coordination of Benefits **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1124–1128). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 3—Public Entity Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director rescinds a rule as follows:

22 CSR 10-3.070 Coordination of Benefits **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1129). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 3—Public Entity Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-3.070 Coordination of Benefits **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 2, 2010 (35 MoReg 1129–1131). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Updated: 10/5/2010 10:44:55

Construction Transient Employers

The following is a list of all construction contractors performing work on construction projects in Missouri who are known by the Department of Revenue to be transient employers pursuant to Section 285.230, RSMo. This list is provided as a guideline to assist public bodies with their responsibilities under this section that states, "any county, city, town, village or any other political subdivision which requires a building permit for a person to perform certain construction projects shall require a transient employer to show proof that the employer has been issued a tax clearance and has filed a financial assurance instrument as required by Section 285.230 before such entity issues a building permit to the transient employer."

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
20/20 THEATRICAL	141 STATE HWY 371 S STE 2	HACKENSACK	MN	56452
A & B PROCESS SYSTEMS CORP	201 S WISCONSIN AVE	STRATFORD	WI	54484
A & K RENTALS LLC	11325 EIFF RD	MARISSA	IL	62257
A MALLORY CONCRETE CONTRACTING INC	17601 STORAGE ROAD #7	OMAHA	NE	68145
AC LEADBETTER & SON INC	110 ARCO DR	TOLEDO	OH	43615
ACADEMY ROOFING & SHEET METAL CO	6361 NE 14TH ST	DES MOINES	IA	50313
ACE REFRIGERATION OF IOWA INC	6440 6TH ST SW	CEDAR RAPIDS	IA	52404
ACI MECHANICAL INC	3116 S DUFF AVE	AMES	IA	50010
ACME ELECTRIC COMPANY OF IOWA	3353 SOUTHGATE COURT SW	CEDAR RAPIDS	IA	52404
ACRONYM MEDIA INC	350 5TH AVE STE 5501	NEW YORK	NY	10118
ACTION INSTALLERS INC	1224 CAMPBELL AVE SE	ROANOKE	VA	24013
ADDISON CONSTRUCTION CO	1526 HORSE CREEK RD	CHEYENNE	WY	82009
ADK ELECTRIC INC	9000 NE 90TH STREET	VANCOUVER	WA	98662
ADVANTAGE PROFESSIONAL OF PHOENIX LLC	1995 WEHRLE DR	WILLIAMSVILLE	NY	14221
AE MFG INC	2505 S 33RD W AVE	TULSA	OK	74157
AKERMAN CONSTRUCTION CO INC	2915 SH 74 SOUTH	PURCELL	OK	73080
ALDRIDGE ELECTRIC INC	844 E ROCKLAND RD	LIBERTYVILLE	IL	60048
ALLIANCE INTEGRATED SYSTEMS INC	1500 STUDEMONT	HOUSTON	TX	77007
ALLIED STEEL CONSTRUCTION CO LLC	2211 NW FIRST TERRACE	OKLAHOMA CITY	OK	73107
ALS CONSTRUCTION INC	16506 PINE VALLEY ROAD	PINE	CO	80470
ALTRESS TRUCKING INC	220 W 440 N	WASHINGTON	IN	47501
ALVAREZ ENVIRONMENTAL LLC	4631 INVERNESS DR	POST FALLS	ID	83854
AM COHRON & SON INC READY MIX CONCRETE	PO BOX 479	ATLANTIC	IA	50022
AMERICAN COATINGS INC	612 W IRIS DR	NASHVILLE	TN	37204
AMERICAN HYDRO	1029 IRS AVE	BALTIMORE	MD	21205
AMERICAN INDUSTRIAL REFRIGERATION INC	1633 EUSTIS	ST PAUL	MN	55108
AMERICAN LIFT & SIGN SERVICE COMPANY	6958 NO 97TH PLAZA	OMAHA	NE	68122
AMERICASDOCTOR.COM COORDINATORS SERVICES INC	3315 S 23RD STR 108	TACOMA	WA	98405
AMRENT CONTRACTING INC	3981 STATE RT 3 NORTH	CHESTER	IL	62233
APOLLO VIDEO TECHNOLOGY	14148 NE 190TH ST	WOODINVILLE	WA	98072
ARBY CONSTRUCTION COMPANY INC	19705 W LINCOLN AVE	NEW BERLIN	WI	53146

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
ARCHITECTURAL WALL SYSTEMS CO	3000 30TH ST	DES MOINES	IA	50310
ARGUSS COMMUNICATIONS GROUP INC	DOVER RD	EPSOM	NH	03234
ARNOLDS CUSTOM SEEDING LLC	4626 WCR 65	KEENESBURG	CO	80643
ASPHALT STONE COMPANY	520 N WEBSTER	JACKSONVILLE	IL	62650
ATLANTIC ENGINEERING GROUP INC	1136 ZION CHURCH RD	BRASELTON	GA	30517
ATLAS INDUSTRIAL HOLDINGS LLC	5275 SINCLAIR RD	COLUMBUS	OH	43229
ATWOOD ELECTRIC INC	23124 HIGHWAY 149	SIGOURNEY	IA	52591
B & B CONTRACTORS INC	4300 EDISON AVE	CHINO	CA	91710
B & D ELECTRIC INC	P O BOX 43	STAMPS	AR	71860
B D WELCH CONSTRUCTION LLC	120 INDUSTRIAL STATION RD	STEELE	AL	35987
B&B ELECTRICAL CONTRACTORS INC	627 CIRCLE DR	IRON MOUNTAIN	MI	49801
BAKER CONCRETE CONSTRUCTION INC	900 N GARVER RD	MONROE	OH	45050
BD CONSTRUCTION INC.	209 EAST 6TH STREET	KEARNEY	NE	68847
BENCOR CORPORATION OF AMERICA FOUNDATION SPECIALST	2315 SOUTHWELL RD	DALLAS	TX	75229
BERBERICH TRAHAN & CO PA	3630 SW BURLINGAME ROAD	TOPEKA	KS	66611
BERNIE JANNING TERRAZZO & TILE INC	17509 HWY 71	CARROLL	IA	51401
BEST PLUMBING & HEATING	421 SECTION OD	SCAMMON	KS	66773
BESTORE INC	6750 W 75TH STE 1A	OVERLAND PARK	KS	66204
BETTIS ASPHALT & CONSTRUCTION INC	2350 NW WATER WORKDS DR	TOPEKA	KS	66606
BIG BLOCK INC	1340 W MAIN	OLATHE	KS	66061
BIG INCH FABRICATORS & CONSTRUCTION INC	P O BOX 99	MONTEZUMA	IN	47862
BIGGE CRANE AND RIGGING CO	10700 BIGGE AVE	SAN LEANDRO	CA	94577
BILL VONDER HAAR INC	2821 WISMANN LN	QUINCY	IL	62301
BISON ELECTRIC INC	12037 E PINE ST	TULSA	OK	74116
BLACK CONSTRUCTION CO	18483 US HIGHWAY 54	ROCKPORT	IL	62370
BLAHNIK CONSTRUCTION CO	150 50TH AVE DR SW	CEDAR RAPIDS	IA	52404
BLAZE MECHANICAL INC	15755 S 169 HWY STE E	OLATHE	KS	66062
BLD SERVICES LLC	2424 TYLER STREET	KENNER	LA	70062
BLUE SKY CONSTRUCTION LLC	17501 NORTHSIDE BLVD	NAMPA	ID	83687
BLUE WATER ENVIRONMENTAL INC	29041 WICK RD	ROMULUS	MI	48170
BLUESTONE CONSTRUCTION LLC	13271 OBANNON STATION WAY	LOUISVILLE	KY	40223
BOB FLORENCE CONTRACTOR INC	1934 S KANSAS AVE	TOPEKA	KS	66612
BOREAL AVIATION INC	401 AVENUE F	GWINN	MI	49841
BRADFORD BUILDING COMPANY	2151 OLD ROCKY RIDGE RD	BIRMINGHAM	AL	35216
BRB CONTRACTORS INC	400 W CURTIS	TOPEKA	KS	66608
BRIDGE CONSTRUCTION MANAGEMENT SERVICES LLC	11209 STRANG LINE ROAD	LENEXA	KS	66215
BROCK SERVICES LTD	1670 E CARDINAL DR	BEAUMONT	TX	77704
BROOKMONT CONSTRUCTION SERVICES LLC	1437 MAIN	KANSAS CITY	MO	64106
BRUCE TRUCKING AND EXCAVATING INC	4401 HWY 162	GRANITE CITY	IL	62040
BRUSH TURBO GENERATORS INC	15110 NW FRWY STE 150	HOUSTON	TX	77040
BRYAN-OHLMEIER CONST INC	911 NORTH PEARL	PAOLA	KS	66071

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
BUILDING ERECTION SERVICES COMP OF MO LC	15585 SOUTH KEELER	OLATHE	KS	66051
C ALEXANDER CONSTRUCTION	744 HORIZON CT STE 135	GRAND JUNCTION	CO	81506
CAM OF ILLINOIS LLC	300 DANIEL BOONE TRAIL	SOUTH ROXANA	IL	62087
CAPITAL INSULATION INC	3210 NE MERIDEN RD	TOPEKA	KS	66617
CARRICO CONSTRUCTION COMPANY INC	4015 MAY AVE	WICHITA	KS	67213
CARTER MOORE INC	1865 E MAIN ST STE F	DUNCAN	SC	29334
CAS CONSTRUCTION LLC	501 NE BURGESS	TOPEKA	KS	66608
CASE FOUNDATION CO	1325 W LAKE ST	ROSELLE	IL	60172
CASHATT & SONS CORP	BOX 74	RED OAK	IA	51566
CAYLOR CONSTRUCTION INC	N 6356 HWY M95	IRON MOUNTAIN	MI	49801
CBS CONSTRUCTORS	204 E 1ST	MCCOOK	NE	69001
CCC GROUP INC	5797 DIETRICH RD	SAN ANTONIO	TX	78219
CCI SYSTEMS INC	105 KENT ST	IRON MOUNTAIN	MI	49801
CENTRAL FOUNDATION INC	915 MARION RD S	CENTRAL CITY	IA	52214
CENTRAL ILLINOIS TILE CO	3302 N MATTIS AVE	CHAMPAIGN	IL	61821
CENTRAL SEAL COMPANY	P O BOX 490	DANVILLE	KY	40422
CETCO CONTRACTING SERVICES COMPANY	900 NORTHBROOK DR STE 320	TREVOSE	PA	19053
CHAMPION EXPOSITION SERVICES	139 CAMPANELLI DRIVE	MIDDLEBORO	MA	02346
CHAMPION FLOORING LLC	1820 27TH TERRACE	PITTSBURGH	KS	66762
CHANCE CONSTRUCTION CO	ITALY & BARBER ST	HEMPHILL	TX	75948
CHARLES W SLOAN & ASSOCIATES INC	P O BOX 3811	FAYETTEVILLE	AR	72702
CHERNE CONTRACTING CORPORATION	9855 W 78TH ST STE 400	EDEN PRAIRIE	MN	55344
CHESTER PHILLIPS CONSTRUCTION COMPANY	1501 N UNIVERSITY STE 740	LITTLE ROCK	AR	72207
CHRIS GEORGE HOMES INC	2111 E SANTA FE #112	OLATHE	KS	66062
CK CONSTRUCTION	6938 STAGGE ROAD	STURGEON BAY	WI	54235
CK II CONTRACTING INC	7700 FORSYTH AVE	CLAYTON	MO	63105
CLEARWATER CONSTRUCTION	584 ROCKY ROAD	LUXEMBURG	WI	54217
CLIFFORD LEE & ASSOCIATES	3400 FLINT HILL HWY	SHILOH	GA	31826
COAST TO COAST BUILDERS INC	750 E FUNSTON	WICHITA	KS	67211
COASTAL GUNITE CONSTRUCTION CO	16 WASHINGTON ST	CAMBRIDGE	MD	21613
COBB MECHANICAL CONTRACTORS INC	2906 W MORRISON	COLORADO SPRINGS	CO	80904
COLE RAYWID & BRAVERMAN LLP	1919 PENNSYLVANIA AVE NW	WASHINGTON	DC	20006
COMMERCIAL INTERIORS INC	90 NEWBERRY DR	LINN VALLEY	KS	66040
CONCO INC	3030 ALL HALLOWS	WICHITA	KS	67217
CONSTRUCTION SERVICES BRYANT INC	232 NEW YORK ST	WICHITA	KS	67214
CONSTRUCTION ZONE OF DFW LLC	1420 SPRINGHILL RD	AUBREY	TX	76227
COOPERS STEEL FABRICATORS	PO BOX 149	SHELBYVILLE	TN	37162
CORNERSTONE COMMERCIAL CONTRACTORS	1260 JERICO	CORNING	IA	50841
COWARTS CONSTRUCTION COMPANY INC	223 AIRPORT RD	SALEM	AR	72576
CREEK ELECTRIC INC	2811 W PAWNEE ST	WICHITA	KS	67213
CROSS COUNTY CONSTRUCTION INC	RR 2 VANCIL RD HWY 24	RUSHVILLE	IL	62681
CROWN CORR INC	7100 W 21ST AVE	GARY	IN	46406

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
CUMMINGS, MCCLOREY, DAVIS, ACHO & ASSOCIATES PC	33900 SCHOOLCRAFT	LIVONIA	MI	48150
CUNNINGHAM INC	112 6TH AVENUE W	OSKALOOSA	IA	52577
CUSTOMER CARE SOLUTIONS	1 IRVINGTON CTR 700 KING	ROCKVILLE	MD	20850
CYC CONSTRUCTION INC	10003 S 152N ST	OMAHA	NE	68138
D & B INDUSTRIAL FLOOR COATINGS INC	W137 N8589 LANDOVER CRT	MENOMONEE FALLS	WI	53051
D & D INDUSTRIAL CONTRACTING INC	101 MULLEN DR	WALTON	KY	41094
D A SMITH ENTERPRISES LLC	7532 N SHIRLEY LANE	TUCSON	AZ	85741
D T READ STEEL COMPANY INC	1725 WEST ROAD	CHESAPEAKE	VA	23323
DAMATO BUILDERS + ADVISORS LLC	40 CONNECTICUT AVE	NORWICH	CT	06360
DANNYS CONSTRUCTION CO INCORPORATED	1066 WEST THIRD AVENUE	SHAKOPEE	MN	55379
DAVID A NICE BUILDERS INC	4571 WARE CREEK ROAD	WILLIAMSBURG	VA	23188
DAVID BOLAND INC	SE ARNOLD & PERIMETER RD	WHITEMAN AFB	MO	65305
DB HEALTHCARE INC	128 WHEELER ROAD	BURLINGTON	MA	01803
DEAN STEEL ERECTION COMPANY INC	5366 N VALLEY PIKE	HARRISONBURG	VA	22803
DEEP SOUTH FIRE TRUCKS INC	2342 HIGHWAY 49 NORTH	SEMINARY	MS	39479
DEJAGER CONSTRUCTION	75 60TH ST SW	WYOMING	MI	49508
DELPHI AUTOMOTIVE SYSTEMS HUMAN RESOURCES LLC	P O BOX 5086	TROY	MI	48007
DIAMOND CONSTRUCTION COMPANY	2000 N 18TH ST	QUINCY	IL	62301
DIAMOND SURFACE INC	13792 REIMER DR N	MAPLE GROVE	MN	55311
DIG AMERICA UTILITY CONTRACTING INC	606 25TH AVE SO STE 202	ST CLOUD	MN	56301
DIVINE INC	2310 REFUGEE RD	COLUMBUS	OH	43207
DOMECORPORATION OF NORTH AMERICA	5450 EAST ST	SAGINAW	MI	48601
DOSTER CONSTRUCTION CO INC	2100 INTERNATIONAL PARK D	BIRMINGHAM	AL	35243
DOUBLE O MASONRY INC	722 S 260TH ST	PITTSBURG	KS	66762
DPLM	1704 E EUCLID AVE	DES MOINES	IA	50313
DRC EMERGENCY SERVICES LLC	740 MUSEUM DRIVE	MOBILE	AL	36608
DUALTEMP INSTALLATIONS INC DBA DUALTEMP WISCONSIN	3695 J N 126TH STREET	BROOKFIELD	WI	53005
DUBOIS TORREY	503 SAND HILL ROAD	LUXEMBURG	WI	54217
DUREX COVERINGS INC	53 INDUSTRIAL RD	BROWNSTOWN	PA	17508
DUSTROL INC	GEN DEL	EL DORADO	KS	67042
DYER ELECTRIC	8171 TOP FLITE CIRCLE	ROGERS	AR	72756
E ROBERTS ALLEY & ASSOCIATES INC	300 10TH AVE S	NASHVILLE	TN	37203
ECHO CONSTRUCTION INC	14012 GILES RD	OMAHA	NE	68138
ECONOMY ELECTRICAL CONTRACTORS	101 CENTURY 21 DR #204	JACKSONVILLE	FL	32216
EDWARDS KAMADULSKI LLC	2230 CLEVELAND AVENUE	EAST ST LOUIS	IL	62205
EIB CONTRACTORS INC	5416 SCHERTZ RD	SAN ANTONIO	TX	78233
ELECTRIC CONSTRUCTION CO	1512 E 17TH ST	SIOUX FALLS	SD	57104
ELECTRICAL BUILDERS INC	20246 EDGEWOOD RD	KIMBALL	MN	56353
ELECTRICAL LINE SERVICES INC	14200 S TULSA DR	OKLAHOMA CITY	OK	73170
ELECTRICO INC	7706 WAGNER ROAD	MILLSTADT	IL	62260

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
ELEMENTS DESIGN BUILD LLC	1136 HILLTOP DR	LAWRENCE	KS	66044
EMCO CHEMICAL DISTRIBUTORS INC	2100 COMMONWEALTH AVE	NORTH CHICAGO	IL	60064
EMERALD CONSTRUCTION MANAGEMENT INC	794 VENTURA ST STE A	AURORA	CO	80011
EMPLOYEE RESOURCE ADMINISTRATION LP	12400 COIT RD #1030	DALLAS	TX	75251
ENGINEERED STRUCTURES INC	12400 W OVERLAND RD	BOISE	ID	83709
ENGLEWOOD CONSTRUCTION INC	9747 W FOSTER AVENUE	SCHILLER PARK	IL	60176
ENTERPRISE SOLUTIONS INC	2116 WALSH AVE STE B	SANTA CLARA	CA	95050
ENVIRONMENTAL FABRICS INC	85 PASCON CT	GASTON	SC	29053
ENVISION CONTRACTORS LLC	2960 FAIRVIEW DR	OWENSBORO	KY	42303
EROCON INC	15720 S KEELER ST	OLATHE	KS	66062
EVCO NATIONAL INC	339 OLD ST LOUIS RD	WOOD RIVER	IL	62095
EVERGREEN CONSULTING GROUP LLC	12184 SW MORNING HILL DR	TIGARD	OR	97223
EXCEL ENGINEERING INC	500 73RD AVE NE STE 119	FRIDLEY	MN	55432
EXCEL STUCCO INC	14123 MANOR DR	LEAWOOD	KS	66224
EXPRESS INSULATION INC	N9450 HWY 175	THERESA	WI	53091
F & M SOUTHERN INC	2201 HAMLIN ROAD	UTICA	MI	48317
F L CRANE & SONS INC	508 S SPRING	FULTON	MS	38843
FABCON INCORPORATED	6111 WEST HIGHWAY 13	SAVAGE	MN	55378
FARABEE MECHANICAL INC	P O BOX 1748	HICKMAN	NE	68372
FARMER ENVIRONMENTAL SERVICES LLC	108 EMERALD HILLS DR	EDWARDSVILLE	IL	62025
FAYETTEVILLE PLUMBING & HEATING CO INC	P O BOX 1061	FAYETTEVILLE	AR	72702
FEDERAL FIRE PROTECTION INC	805 SECRETARY DR STE A	ARLINGTON	TX	76015
FEDERAL STEEL & ERECTION	200 E ALTON AVE	EAST ALTON	IL	62024
FIRST CONSTRUCTION GROUP INC	3729 WEST AVE	BURLINGTON	IA	52601
FISHEL COMPANY THE	1810 ARLINGATE LN	COLUMBUS	OH	43228
FLEMINGTON CONSTRUCTION INC	9207 SLATER	OVERLAND PARK	KS	66212
FLORIDA INSTITUTE OF TECHNOLOGY INC	150 W UNIVERSITY BLVD	MELBOURNE	FL	32901
FOUNDATION SPECIALIST INC	328 SOUTH 40TH STREET	SPRINGDALE	AR	72762
FREESSEN INC	316 S PEARL	BLUFFS	IL	62621
FRONT RANGE ENVIRONMENTAL LLC	2110 W WRIGHT RD	MCHENRY	IL	60050
GAMMA CONSTRUCTION COMPANY	2808 JOANEL	HOUSTON	TX	77027
GARCIA CHICOINE ENTERPRISES INC	1118 NORTH 22ND STREET	LINCOLN	NE	68503
GAS ELECTRICAL SERVICES INC	216 W 2ND STREET	HOLSTEIN	IA	51025
GASS BRICKWORK INC	6205 COUNTRYSIDE LANE	FREEBURG	IL	62243
GEA POWER COOLING INC	143 UNION BLVD STE 400	LAKEWOOD	CO	80228
GEISSLER ROOFING CO INC	612 S 3RD ST	BELLEVILLE	IL	62220
GENESEE FENCE & SUPPLY CO	53861 GRATIOT	CHESTERFIELD	MI	48051
GEOFIRMA LLC	605 HARPETH KNOLL ROAD	NASHVILLE	TN	37221
GLEESON CONSTRUCTORS INC	2015 E 7TH ST	SIOUX CITY	IA	51105
GOLEY INC	P O BOX 309	DUPO	IL	62239
GOOLSBY INC	3002 WEST MAIN STRET	BLYTHEVILLE	AR	72315
GORDON ENERGY AND DRAINAGE	15735 S MAHAFFIE	OLATHE	KS	66062

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
GORDONS ENHANCED TECHNOLOGY MARKETING INC	3744 ARAPAHO ROAD	ADISON	TX	75001
GRAHAM CONSTRUCTION INC	5TH & WALNUT	COLUMBIA	MO	65205
GRAYCLIFF ENTERPRISES INC	3300 BATTLEGROUND #100	GREENSBORO	NC	27410
GRAZZINI BROS COMPANY	620 16TH AVE S	MINNEAPOLIS	MN	55454
GRE CONSTRUCTION	628 PALESTINE RD	CHESTER	IL	62233
GREAT SOUTH CONSTRUCTION CO INC	2500 HWY 31 SOUTH	PELHAM	AL	35124
GREAT SOUTHWESTERN CONSTRUCTION INC	6880 SO I 25	CASTLE ROCK	CO	80104
GRP MECHANICAL COMPANY INC	1 MECHANICAL DR	BETHALTO	IL	62010
GUS CONST CO INC	606 ANTIQUE COUNTRY DR	CASEY	IA	50048
GYPSUM FLOORS OF AR/OK INC	PO BOX 1707	MULDROW	OK	74948
H & H SERVICES INC	391 OLD RTE N 66	HAMEL	IL	62046
H & H SYSTEMS & DESIGN INC	130 EAST MAIN ST	NEW ALBANY	IN	47150
H & L ELECTRIC INC	11130 LEGION DRIVE	SAINT GEORGE	KS	66535
H & M CONSTRUCTION CO INC	50 SECURITY DR	JACKSON	TN	38305
H & M INDUSTRIAL SERVICES INC	121 EDWARDS DR	JACKSON	TN	38302
H&H DRYWALL SPECIALTIES INC	3727 E 31ST STR	TULSA	OK	74135
HALL BROTHERS RECYCLING & RECLAMATION INC	124 INDIANA AVE	SALINA	KS	67401
HALL PAVING INC	1196 PONY EXPRESS HWY	MARYSVILLE	KS	66508
HAREN & LAUGHLIN RESTORATION COMPANY INC	8035 NIEMAN RD	LENEXA	KS	66214
HARMAN CONSTRUCTION INC	1633 ROGERS RD	FORT WORTH	TX	76107
HARNESS ROOFING INC	P O BOX 1382	HARRISON	AR	72601
HARRINGTON BROTHERS INC	8147 COLE PARKWAY	SHAWNEE	KS	66227
HART PAINTING	2555 SW 50	OKLAHOMA CITY	OK	73119
HARVEY NASH INC	1680 ROUTE 23 N STE 300	WAYNE	NJ	07470
HC BECK LTD	1820 MARKET ST FL 3	ST LOUIS	MO	63103
HENDERSON ENGINEERS INC	8325 LENEXA DR STE 400	LENEXA	KS	66214
HERITAGE HOUSING DEVELOPMENT INC	16133 VENTURA BLVD #965	ENCINO	CA	91436
HG DALLAS CONSULTING LLC	6860 N DALLAS PKWY	PLANO	TX	75024
HINRICHS GROUP INC THE	340 OFFICE COURT STE A	FAIRVIEW HEIGHTS	IL	62208
HOFFMANN INC	6001 49TH ST S	MUSCATINE	IA	52761
HOLIAN ASBSTS RMVL & ENCPSTLN CORP	7504 MEYER RD	SPRING GROVE	IL	60081
HOOPER CORPORATION	P O BOX 7455	MADISON	WI	53707
HORIZON GENERAL CONTRACTORS INC	7315 W ELIZABETH LN	FT WORTH	TX	76116
HORIZONTAL BORING & TUNNELING CO	505 S RIVER AVE	EXETER	NE	68351
HORNE CONSTRUCTION & DEVELOPMENT INC	525 SOUTH 300 WEST	SALT LAKE CITY	UT	84101
HUFF SEALING CORPORATION	HWY 15E	ALBION	IL	62806
HUMAN CAPITAL CONCEPTS LLC	1075 BROAD RIPPLE AVE	INDIANAPOLIS	IN	46220
HUSTON CONTRACTING INC	25640 W 143RD ST	OLATHE	KS	66061
HUTTON CONTRACTING CO INC	HWY 50	LINN	MO	65051
I & I CONSTRUCTION INC	21050 N BRADY ST STE A	DAVENPORT	IA	52804
IMPERIAL ROOF SYSTEMS CO	203 ARMOUR ST	WEST UNION	IA	52175

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INDUSTRIAL POWER & PROCESS CORP	P O BOX 38995	GREENSBORO	NC	27438
INDUSTRY SERVICES CO INC	5550 TODD ACRES DR	MOBILE	AL	36619
INGRAM CONSTRUCTION COMPANY INC OF	173 HOY RD	MADISON	MS	39110
INTERNATIONAL INDUSTRIAL CONTRACTING CORPORATION	35900 MMOUND RD	STERLING HEIGHTS	KS	48310
INTERSTATES CONSTRUCTION SERVICES INCORPORATED	1520 INDUSTRIAL PARK	SIOUX CENTER	IA	51250
INTL BROTHERHOOD OF ELECTRICAL WORK	106 N MONROE ST	WEST FRANKFORT	IL	62896
IRBY CONSTRUCTION CO	817 S STATE ST	JACKSON	MS	39201
IRON MOUNTAIN M J ELECTRIC LLC	16151 N RT Z	CENTRALIA	MO	65240
ISEC INC	33 INVERNESS DR E	ENGLEWOOD	CO	08990
ISIS CONSULTANTS LLC	6200 FEGENBUSH LANE	LOUISVILLE	KY	40228
JACOBS LADDER INC	2325 COBDEN SCHOOL ROAD	COBDEN	IL	62920
JACOBSON DANIELS ASSOCIATION	121 PEARL STREET	YPSILANTI	MI	48197
JAMAR COMPANY THE	1100 OLD HIGHWAY 8 NW	NEW BRIGHTON	MN	55112
JAMES N GRAY CONSTRUCTION CO	250 W MAIN ST	LEXINGTON	KY	40507
JD FINNEGAN INC	1724 BERKELEY WAY	SACRAMENTO	CA	95819
JD FRANKS INC	1602 S BELTINE ROAD	DALLAS	TX	75253
JEN MECHANICAL INC	803 HOPP HOLLOW DR	ALTON	IL	62002
JESCO INC	2020 MCCULLOUGH BLVD	TUPELO	MS	38801
JF BRENNAN CO INC	820 BAINBRIDGE ST	LA CROSSE	WI	54603
JOHN A PAPALAS & CO	1187 EMPIRE	LINCOLN PARK	MI	48146
JOHN E GREEN COMPANY	220 VICTOR AVE	HIGHLAND PARK	MI	48203
JOHNSON INDUSTRIAL SERVICES INC	200 BENTLEY CIR	SHELBY	AL	35143
JOHNSONS BUILDERS	1455 HODGES FERRY ROAD	DOYLE	TN	38559
JOLLEY CONSTRUCTION COMPANY	2034 HAMILTON PL BLVD 200	CHATTANOOGA	TN	37421
JOMAX CONSTRUCTION COMPANY INC	S 281 HWY	GREAT BEND	KS	67530
JOY MASONRY	124 S BALTIMORE STE I	DERBY	KS	67037
JR JENSEN CONSTRUCTION COMPANY	814 21ST AVENUE EAST	SUPERIOR	WI	54880
JULIUS KAAZ CONSTRUCTION COMPANY IN	716 CHEROKEE	LEAVENWORTH	KS	66048
K R SWERDFEGER CONSTRUCTION INC	421 E INDUSTRIAL BLVD	PUEBLO WEST	CO	81007
KAISER ELECTRICAL CONTRACTORS INC	310A ERIE AVENUE	MORTON	IL	61550
KANSAS BUSINESS FORMS AND SUPPLIES INC	505 MAIN ST	BELTON	MO	64012
KASBOHM CUSTOM DRILLING INC	11404 OAKTON RD	SAVANNA	IL	61074
KBS CONSTRUCTORS INC	1701 SW 41ST	TOPEKA	KS	66609
KELLEY DEWATERING & CONSTRUCTION CO	5175 CLAY AVENUE SW	WYOMING	MI	49548
KENJURA TILE INC	BOX 158	BRENNHAM	TX	77834
KENT ANDERSON CONCRETE LP	830 E VALLEY RIDGE BLVD	LEWISVILLE	TX	75057
KESSLER CONSTRUCTION INC	13402 W 92ND ST	LENEXA	KS	66215
KEY CONSTRUCTION OKLAHOMA LLC	5415 S 125TH AVE STE 201	TULSA	OK	74146
KGL ASSOCIATES INC	759 ADAMS ST	DENVER	CO	80206
KIEWIT BUILDING GROUP INC	3555 FARNAM ST	OMAHA	NE	68131
KILIAN CORPORATION THE	608 S INDEPENDENCE	MASCOUTAH	IL	62258

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KIM CON INC	10003 S 152ND ST	OMAHA	NE	68138
KING OF TEXAS ROOFING COMPANY LP	307 GILBERT CIRCLE	GRAND PRAIRIE	TX	75050
KINLEY CONSTRUCTION COMPANY	201 N UNION ST BNK RM 502	OLEAN	NY	14760
KINLEY CONSTRUCTION GROUP LP	4025 WOODLAND PK BLVD 410	ARLINGTON	TX	76013
KR&G EXCAVATING PARTNERS LLC	7 STONEHILL ROAD	OSWEGO	IL	60543
KTU CONSTRUCTORS A JOINT VENTURE	2708 NE INDENPENDENCE AVE	LEE'S SUMMIT	MO	64064
L & L INSULATION & SUPPLY CO	3810 B PAULE AVE	ST LOUIS COUNTY	MO	63125
L B A AIR HTG & PLBG INC	6226 MARRIAM DR	MERRIAM	KS	66203
L G ELECTRIC INC	701 E 15TH ST	CHEYENNE	WY	82001
LAForge & BUDD CONST CO INC	DEN GEL	PARSON	KS	67357
LAKE CONTRACTING INC	4650 STONE CHURCH RD	ADDIEVILLE	IL	62214
LAKEVIEW CONSTRUCTION OF WISCONSIN	10505 CORPORATE DR #200	PLEASANT PRAIRI	WI	53158
LAMAR MOORE CONSTRUCTION INC	4401 STATE ROUTE 162	GRANITE CITY	IL	62040
LARSON CONTRACTING INC	508 WEST MAIN STREET	LAKE MILLS	IA	50450
LAVEREDIERE CONSTRUCTION INC	4055 W JACKSON ST	MACOMB	IL	61455
LEGACY ENGINEERING LLC	18662 MACARTHUR STE 457	IRVINE	CA	92617
LIMBAUGH CONSTRUCTION CO INC	4186 HWY 162	GRANITE CITY	IL	62040
LJ KEEFE CO	704 WEST CENTRAL ROAD	MOUNT PROSPECT	IL	60056
LONGAN CONSTRUCTION COMPANY	1635 US HWY 59 N	GROVE	OK	74344
LONGS DRILLING SERVICE INC	6768 LYNX LANE	HARRISON	AR	72601
LPR CONSTRUCTION CO	1171 DES MOINES AVE	LOVELAND	CO	80537
LUKE & ASSOCIATES INC	3401 N COURTENAY PKWY 101	MERRITT ISLAND	FL	32953
LUSE THERMAL TECHNOLOGIES LLC	3990 ENTERPRISE COURT	AURORA	IL	60504
M & A JONES CONSTRUCTION CO INC	P O BOX 3944	BATESVILLE	AR	72503
M & W CONTRACTORS INC	400 S STEWART ST	E PEORIA	IL	61611
M&J ELECTRIC OF WICHITA LLC	1444 S ST CLAIR BLDG D	WICHITA	KS	67213
MAGUIRE IRON INC	300 W WALNUT BOX 1446	SIOUX FALLS	SD	57101
MAHAFFEY CONSTRUCUTION	102 ESTATES DR	GREEN FOREST	AR	72638
MAHAFFEY CONSTRUCTION	102 ESTATES DR	GREEN FOREST	AR	72638
MAINSTREET MUFFLER AND BRAKE	1406 N MAIN STREET	HARRISON	AR	72601
MAJOR REFRIGERATION CO INC	314 NORTHWESTERN AVENUE	NORFOLK	NE	68701
MARKETING ASSOCIATES INC	131 ST JAMES WAY	MOUNT AIRY	NC	27030
MAROLD ELECTRIC INC	1925 SHERWOOD LAKE ESTATE	QUINCY	IL	62305
MARTIN COMPANIES LLC DBA MARTIN ELECTRIC	1542 E SPRUCE	OLATHE	KS	66061
MAXIS GROUP INC	8167 E DEL CAMINO DRIVE	SCOTTSDALE	AZ	85258
MCBRIDE ELECTRIC INC	3215 E 9TH N	WICHITA	KS	67208
MDS BUILDERS INC	5455 N FEDERAL HWY	BOCA RATON	FL	33487
MEADOWS CONSTRUCTION CO INC	1014 FRONT ST	TONGANOXIE	KS	66086
MECHANICAL CONSTRUCTION SERVICES IN	1711 MELROSE DR	BENTON	AR	72015
MECHANICAL SERVICE COMPANY	5440 NORTHSORE DRIVE	NORTH LITTLE ROCK	AR	72118
MERCON CORPORATION	28425 FOX RIDGE COURT	DANBURY	WI	54830
MERIT GENERAL CONTRACTORS INC	950 KANSAS AVE	KANSAS CITY	KS	66105

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MERZ VAULT INC	512 COTTONWOOD	SALEM	IL	62881
METROPOLITAN PAVEMENT SPECIALISTS LLC	14012 GILES RD	OMAHA	NE	68138
MEYERS PLUMBING	4117 MAIN STREET RD	KEOKUK	IA	52632
MICHAEL CONSTRUCTION CO INC	SECONDARY RT 79 BOX 143	DRY BRANCH	WV	25061
MID STATES ELECTRIC CO INC	P O BOX 156	S SIOUX CITY	NE	68776
MIDSOUTH SPECIALTY CONSTRUCTION LLC	5731 OSBOURNE RD	ST JOE	AR	72675
MIDWEST MOLE INC	2460 N GRAHAM AVE	INDIANAPOLIS	IN	46218
MIKE PETERSON CONSTRUCTION	1941 RAMROD AVENUE STE A	HENDERSON	NV	89014
MILAN DECORATORS INC	2047 KEFAUVER DR	MILAN	TN	38358
MILL VALLEY EXCAVATING LLC	13779 W 155TH CT	OLATHE	KS	66062
MILLENNIUM BROKERAGE GROUP	611 COMMERCE ST STE 2704	NASHVILLE	TN	37203
MILLER DRILLING COMPANY INC	107 HELTON DR	LAWRENCEBURG	TN	38464
MILLER THE DRILLER	5125 E UNIVERSITY	DES MOINES	IA	50317
MILLS ELECTRICAL CONTRACTORS	2535 WALNUT HILL LN	DALLAS	TX	75229
MJ HARRIS INC	2620 N WESTWOOD BLVD	POPLAR BLUFF	MO	63901
MJM SERVICES INC	207 N 48TH ST	BELLEVILLE	IL	62223
MORRIS BECK CONSTRUCTION SERVICES INC	8100 COLONEL GLENN RD	LITTLE ROCK	AR	72204
MORRIS SHEA BRIDGE CO INC	1820 1ST AVENUE SOUTH	IRONDALE	AL	35210
MORRISSEY CONTRACTING CO	705 SOUTHMOOR PL	GODFREY	IL	62035
MOWING AND LIMBING INC	19781 HWY 67	MALVERN	AR	72104
MULTIPLE CONCRETE ENTERPRISES	1680 W 1000 N	LAYTON	UT	84041
MUNIE COMPANY	1000 MILBOURN SCHOOL ROAD	CASEYVILLE	IL	62232
MURPHY & SONS ROOFING	1010 NORTH 54TH ST	KANSAS CITY	KS	66102
MW BUILDERS OF TEXAS INC	1701 N GENERAL BRUCE DR	TEMPLE	TX	76504
MYLES LORENTZ INC	48822 OLD RIVER BLUFF RD	ST PETER	MN	56082
NATGUN CORP	11 TEAL RD	WAKEFIELD	MA	01880
NATIONAL CONTRACTOR SERVICES INC	1 SEVEN ACRES DRIVE	LITTLE ROCK	AR	72223
NATIONAL STEEL CONSTRUCTORS LLC	14650 JIB STREET	PLYMOUTH	MI	48170
NEESE INC	303 DIVISION PO BOX 392	GRAND JUNCTION	IA	50107
NELSON INDUSTRIAL SERVICES INC	6021 MELROSE LN	OKLAHOMA CITY	OK	73127
NEW DIMENSION INC	631 E BIG BEAVER #109	TROY	MI	48083
NEW TEAM LLC	110 E BROWARD BLVD 2450	FT LAUDERDALE	FL	33301
NORTH MISSISSIPPI CONVEYOR COMPANY INC	HWY 7S LAFAYETTE CO RD370	OXFORD	MS	38655
NORTHERN CLEARING INC	1805 W MAIN ST	ASHLAND	WI	54806
NORTHWEST CONCRETE CUTTING CORP	1001 E 52ND ST NORTH	SIOUX FALLS	SD	57104
NORWOOD COMMERCIAL CONTRACTORS INC	214 PARK ST	BENSENVILLE	IL	60106
ODONNELL & SONS CONSTRUCTION CO INC	15301 BROADMOOR ST	OVERLAND PARK	KS	66223
OFALLON ELECTRIC COMPANY	P O BOX 488	OFALLON	IL	62269
OMA NOW PC	2165 PROFESSIONAL DR 101	CORVALLIS	OR	97330
OMNI ENGINEERING INC	14012 GILES RD	OMAHA	NE	68138
ON LINE DESIGN INC	12057 SHERATON LN	CINCINNATI	OH	45246
ORASURE TECHNOLOGIES INC	220 EAST FIRST STREET	BETHLEHEM	PA	18015

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OUT OF BOUNDS INC	101 AIRPORT ROAD	ALTO	NM	88312
OXISTOP LLC	1413 QUAKER CIRCLE	SALEM	OH	44460
P M ADVANCED EDUCATION INC	1534 ADAMS AVENUE	COSTA MESA	CA	92626
P1 GROUP INC	16210 W 108TH ST	LENEXA	KS	66219
PADGETT BUILDING & REMODELING INC	4200 SMELTING WORKS RD	BELLEVILLE	IL	62226
PASCHAL HEATING & AIR CONDITIONING CO INC	287 W COUNTY LINE ROAD	SPRINGDALE	AR	72764
PATHWAY SURFACES INC	15556 PERKINS RD	BATON ROUGE	LA	70810
PCI ROADS LLC	14123 42ND ST NE	ST MICHAEL	MN	55376
PCL CONSTRUCTION SERVICES INC	2000 S COLORADO BLVD 2500	DENVER	CO	80222
PCS CONSTRUCTION INC	30266 130TH STREET	WAYNE	OK	73095
PETTUS PLUMBING & PIPING INC	P O BOX 3237	MUSCLE SHOALS	AL	35662
PHOENIX MILLWORK LLC	P O BOX 2788	ALVIN	TX	77512
PIASA COMMERCIAL INTERIORS INC	1001 S MORRISON AVE	COLLINSVILLE	IL	62234
PLOWMAN CONSTRUCTION COMPANY INC	905 E PARK ST	OLATHE	KS	66061
PLUM RHINO CONSULTING LLC	1010 HUNTCLIFF STE 1350	ATLANTA	GA	30350
P-N-G CONTRACTING INC	917 CARLA DR	TROY	IL	62294
POLE MAINTENANCE CO LLC	4307 23RD ST	COLUMBUS	NE	68601
POTTER ELECTRIC	2801 W 7TH STREET	ELK CITY	OK	73644
PRECAST ERECTORS INC	3500 VALLEY VISTA DR	HURST	TX	76053
PRICE GREGORY INTERNATIONAL INC	15660 N DALLAS PRKY #300	DALLAS	TX	75248
PRIME TEAM PARTNERS INC	100 WEST HARRISON ST S450	SEATTLE	WA	98119
PRO CARWASH SYSTEMS INC	6199 S OLIVER	DERBY	KS	67037
PRO LINE CONSTRUCTION INC	7946 NW TOPEKA BLVD	TOPEKA	KS	66617
PROFESSIONAL HVAC R SERVICES INC	2861 CENTER RD	AVON	OH	44011
PROJECT BUILDERS INC	1996 CLIFF VALLEY WAY NE	ATLANTA	GA	30329
PULTE PAYROLL CORPORATION	100 BLOOMFIELD HILLS #300	BLOOMFIELD HILLS	MI	48034
QUALITY ELECTRIC OF DOUGLAS COUNTY INC	1011 E 31ST STREET	LAWRENCE	KS	66046
QUOVADX INC	7600 E ORCHARD RS 300 S	GREENWOOD VILLAGE	CO	80111
R MESSNER CONSTRUCTION CO INC	3595 N WEBB RD #500	WICHITA	KS	67226
RAGAN MECHANICAL INC	702 W 76TH STREET	DAVENPORT	IA	52806
RAGO CONCRETE LTD	5610 FM 2218	RICHMOND	TX	77469
RAM CONSTRUCTION SERVICES OF MINNESOTA LLC	13800 ECKLES RD	LIVONIA	MI	48150
RANGER PLANT CONSTRUCTIONAL CO INC	5851 E INTERSTATE 20	ABILENE	TX	79601
RCS CONSTRUCTION INC	197 OLD ST LOUIS RD	WOOD RIVER	IL	62095
RDC MANUFACTURING INC	200 LUKKEN INDUSTRIAL DR	LA GRANGE	GA	30240
REASONS CONSTRUCTION COMPANY INC	3825 EAST END DR	HUMBOLDT	TN	38343
REDDINGER CONSTRUCTORS INC	6301 OLD BOONVILLE HWY	EVANSVILLE	IN	47715
REGENCY CONSTRUCTORS LLC	4744 JAMESTOWN AV STE 103	BATON ROUGE	LA	70808
RELIANT TRANSPORTATION CF LLC	770 N COTNER BLVD 410	LINCOLN	NE	68505
RELIA TECH INC	2280 SIBLEY COURT	EAGAN	MN	55122
REMCON GENERAL CONTRACTING INC	10311 RT E	JEFFERSON CITY	MO	65101
RENIER CONSTRUCTION CORPORATION	2164 CITY GATE DRIVE	COLUMBUS	OH	43219

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REPIPE CONSTRUCTION LTD	131 N RICHEY	PASADENA	TX	77506
RESERV CONSTRUCTION CO INC	7101 SHARONDALE CT #200	BRENTWOOD	TN	37027
RETAIL CONSTRUCTION SERVICES INC	11343 39TH ST N	ST PAUL	MN	55042
RETAIL STOREFRONT GROUP INC	419 MIAMI AVE	LEEDS	AL	35094
RFB CONSTRUCTION CO INC	565 E 520TH AVE	PITTSBURGH	KS	66762
RFW CONSTRUCTION GROUP LLC	1315 N CHOUTEAU TRAFFICWA	KANSAS CITY	MO	64120
RHYTHM ENGINEERINGLLC	12351 W 96TH TER STE 107	LENEXA	KS	66214
RISE GROUP THE	120 S LASALLE ST STE 1350	CHICAGO	IL	60603
RJ PITCHER INC	4575 BUCKLEY RD	LIVERPOOL	NY	13088
RL MURPHEY COMMERCIAL ROOF MANAGEMENT LLC	5699 N DARDEMAN ROAD	JUSTIN	TX	76247
ROBINS & MORTON GROUP THE	400 SHADES CREEK PKWY	BIRMINGHAM	AL	35209
ROCK REMOVAL RESOURCES LLC	423 E BRONSON ROAD	SEYMOUR	WI	54165
ROCKY MOUNTAIN INDUSTRIAL SERVICES LLC	8571 ROSEMARY STREET #B	COMMERCE CITY	CO	80022
ROD TECHS INC	5991 MIEJER DRIVE STE 22	MILFORD	OH	45150
ROEHL REFRIGERATED TRANSPORT LLC	1916 E 29TH STREET	MARSHFIELD	WI	54449
ROGER ENGEMANN DRAINAGE CO INC	135 N MAIN	TROY	KS	66087
RON WEERS CONSTRUCTION INC	20765 S FOSTER COURT	BUCYRUS	KS	66013
ROSS & ASSOCIATES OF RIVER FALLS WISCONSIN LTD	246 SUMMIT	RIVER FALLS	WI	54022
RUPP MASONRY CONSTRUCTION CO	1501 N 18TH STREET	QUINCY	IL	62301
RUSSELL CONSTRUCTION CO	3032 A NORTH FRAZIER ST	CONROE	TX	77303
RUSSELL CONSTRUCTION COMPANY	1414 MISSISSIPPI BLVD	BETTENDORF	IA	52722
RYAN FLOORS INC	305 CARL STREET	ROCKVILLE	MD	20851
S & B CONSTRUCTION CO LLC	117 E WASHINGTON ST	INDIANAPOLIS	IN	46204
S A COMUNALE CO INC	2900 NEWPARK DR	BARBERTON	OH	44203
S M STOLLER CORPORATION THE	105 TECHNOLOGY DR STE 190	BROOMFIELD	CO	80021
S T COTTER TURBINE SERVICES INC	2167 196TH STREET EAST	CLEARWATER	MN	55320
SA SMITH ELECTRIC INC	525 JERSEY ST	QUINCY	IL	62301
SAGEZ CONSTRUCTION INC	HC61 BOX 17	HARDIN	IL	62047
SASCO	1227 N MARKET BLVD	SACRAMENTO	CA	95834
SCHEAR CORPORATION	5490 LEE STREET	LEHIGH ACRES	FL	33971
SCHMIDT CONSTRUCTION	2549 BURMEISTER ROAD	STURGEON BAY	WI	54235
SCHUMACHER ELEVATOR COMPANY	ONE SCHUMAKER WAY	DENVER	IA	50622
SCHUPPS LINE CONSTRUCTION INC	10 PETRA LANE	ALBANY	NY	12205
SCHWEITZER ENGINEERING LABORATORIES INC	2350 NE HOPKINS CT	PULLMAN	WA	99163
SEK HEAT & AIR INC	422 W ATKINSON	PITTSBURG	KS	66762
SHAFFER GROUP LLC	29150 C DRIVE NORTH	ALBION	MI	49224
SHAKTHY INFORMATION SYSTEMS INC	13910 FALCONCREST ROAD	GERMANTOWN	MD	20874
SHAWNEE MISSION TREE SERVICE INC	8250 COLE PKWY	SHAWNEE MSN	KS	66227
SHIELDS TELECOMM INC	7 CIRCLE DR	MOUNT VERNON	IL	62864
SHILLING CONSTRUCTION CO INC	555 POYNTZ AVE STE 260	MANHATTAN	KS	66502
SHILOH STEEL FABRICATORS INC	200 EAST HWY 264	SPRINGDALE	AR	72764

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SIERRA BRAVO CONTRACTORS LLC	7038 HWY 154	SESSER	IL	62884
SIMMONS BROWDER GIANARIS ANGELIDES & BARNERD LLC	707 BERKSHIRE BLVD	EAST ALTON	IL	62024
SKYLIGHT FINANCIAL INC	1455 LINCOLN PKWY STE 600	ATLANTA	GA	30346
SLUDGE TECHNOLOGY INC	8101 W 33RD STREET S	MUSKOGEE	OK	74401
SNELL NORTHCUTT ELECTRIC INC	P O BOX 24601	LITTLE ROCK	AR	72221
SNYDER ENVIRONMENTAL & CONSTRUCTION INC	124 W CAPITOL AVE STE1820	LITTLE ROCK	AR	72201
SOUTHEAST DIRECTIONAL DRILLING LLC	3117 N CESSDA AVE	CASA GRANDE	AZ	85222
SOUTHERN CONCRETE PRODUCTS INC	266 E CHRUCH STREET	LEXINGTON TN	TN	38351
SOUTHWINDS INSPECTION CORP	RT 2 BOX 88A	KINGFISHER	OK	73750
SPECTRA TECH LLC	16100 ALLISONVILLE RD	NOBLESVILLE	IN	46060
SPORTEXE CONSTRUCTION SERVICES INC	1809 MERRITTVILLE FONTHIL	ONT CAN LOS1E6	ON	99999
SPORTS METALS INC	P O BOX 1338	PHENIX CITY	AL	36868
STANDARD HEATING AND AIR CONDITIONING INC	11746 PORTAL ROAD	LA VISTA	NE	68128
STAROSTKA GROUP UNLIMITED	429 INDUSTRIAL LANE	GRAND ISLAND	NE	68803
STEPHENS & SMITH CONSTRUCTION CO INC	1542 S 1ST ST	LINCOLN	NE	68502
STILL CONTRACTORS LLC	15740 S MAHAFFIE ST	OLATHE	KS	66062
STORK TWIN CITY TESTING CORPORATION	662 CROMWELL AVENUE	ST PAUL	MN	55114
STOVALL CONSTRUCTION INC	7409 US HWY 287	ARLINGTON	TX	76001
STREICHER EXCAVATING INC	1718 EAST BREMER AVE	WAVERLY	IA	50677
STRINGER CONSTRUCTION COMPANY INC	6141 LUCILE AVE	SHAWNEE	KS	66203
STRUKEL ELECTRIC INC	375 W WALNUT ST	GIRARD	KS	66743
STUEVE CONSTRUCTION COMPANY	2201 E OAK ST	ALGONA	IA	50511
STURZENBECKER CONSTRUCTION COMPANY INC	1113 44TH AVE N STE 300	MYRTLE BEACH	SC	29577
SUBZERO CONSTRUCTORS INC	30055 COMERCIO	RANCHO SANTA MARGARI	CA	92679
SUNCON INC	#2 TERMINAL DR STE 17A	EAST ALTON	IL	62002
SUPERIOR CONCRETE PRODUCTS	P O BOX 201625	ARLINGTON	TX	76006
SUPERIOR INSULATION INC	34857 BRUSH STREET	WAYNE	MI	48184
SURFACE PREPARATION TECHNOLOGIES INC	81 TEXACO ROAD	MECHANICSBURG	PA	17055
SW HUFFMAN CONSTRUCTION INC	PO BOX 99	OTTUMWA	IA	52501
SYNERGY REFRIGERATION INC	1680 ROBERTS BLVD	KENNESAW	GA	30144
SYRSTONE INC	7395 TAFT PARK DR	EAST SYRACUSE	NY	13057
TAIL WIND TECHNOLOGIES CORPORATION	13911 RIDGEDALE DR #310	MINNETONKA	MN	55305
TANCO ENGINEERING INCORPORATED	1400 TAURUS COURT	LOVELAND	CO	80537
TANK BUILDERS INC	13400 TRINITY BLVD	EULESS	TX	76039
TASKE FORCE INC	1013 MAIN STREET	KEOKUK	IA	52632
TEAMWAY BUILDERS INC	100 TOWER DR 15	GREENVILLE	SC	29616
TECH BUILDERS INC	410 DOWNTOWN PLZ	FAIRMONT	MN	56031
TEFCO INC	11022 SAWMILL RD	ELBERFELD	IN	47613
TEKRAN INSTRUMENTS CORPORATION	330 NANTUCKET BLVD TORONT	ONT CAN M1P2P4	ON	99999
TELECRAFTER SERVICES LLC	13131 W CEDAR DR	LAKEWOOD	CO	80228
TENCON INC	530 JONES ST	VERONA	PA	15147

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
TENOCH CONSTRUCTION INC	6216 MISSION RD	FAIRWAY	KS	66205
TERRA ENGINEERING & CONSTRUCTION CORPORATION	2201 VONDRON RD	MADISON	WI	53718
TERWISSCHA CONSTRUCTION INC	1107 HAZELTINE BLVD MD 68	CHASKA	MN	55318
TEXAS COMMERCIAL FENCE INC	320 SOUTHLAND DR	BURNET	TX	78611
THOMPSON ELECTRONICS COMPANY	905 S BOSCH ROAD	PEORIA	IL	61607
TITAN BUILT LLC	11865 S CONLEY	OLATHE	KS	66061
TITAN CONTRACTING & LEASING CO INC	2205 RAGU DRIVE	OWENSBORO	KY	42302
TOMS TUCKPOINTING LLC	410 W ELM	CORNING	AR	72422
TONTO CONSTRUCTION INC	HWY 16 W 78TH ST	MUSKOGEE	OK	74401
TOURNEAR ROOFING CO	2605 SPRING LAKE RD	QUINCY	IL	62305
TOWER MECHANICAL SERVICES	2125 W 20TH AVE	OSHKOSH	WI	54904
TR MANAGEMENT INC	6700 SW TOPEKA BLVD #344	TOPEKA	KS	66619
TRAC WORK INC	303 W KNOX	ENNIS	TX	75119
TRAFFIC CALMING USA	110 THOMPSON RD #102A	HIRAM	GA	30141
TRAFFIC CONTROL SERVICES LLC	1411 STONERIDGE DRIVE	MIDDLETOWN	PA	17057
TRI STATE PAVING INC	STATE LINE RD	PICHER	OK	74360
TRIAGE CONSULTING GROUP	221 MAIN STREET STE 1100	SAN FRANCISCO	CA	94105
TRIANGLE TRUCKING LLC	511 BROWN ROAD	LAKE ORION	MI	48359
TRUCK CRANE SERVICE COMPANY	2875 HIGHWAY 55	EAGAN	MN	55121
TULSA DYNASPAN INC	1601 E HOUSTON ST	BROKEN ARROW	OK	74012
TULSA INSPECTION RESOURCES INC	12811 E 86TH PLACE N #106	OWASSO	OK	74055
TULSA INSPECTION RESOURCES INC	4111 S DARLINGTON #1000	TULSA	OK	74135
TWEET GAROT MECHANICAL INC	2545 LARSEN RD	GREEN BAY	WI	54303
ULTIMATE THERMAL INC	P O BOX 34818	OMAHA	NE	68134
UNDERGROUND UTILITIES CONTRACTORS INC	403 COMMERCE PARK DR	CABOT	AR	72023
UNITED CONTRACTORS INC	6678 NW 62ND AVE	JOHNSTON	IA	50131
UNITED EXCEL CORPORATION	5425 ANTIOCH RD	MERRIAM	KS	66202
US ASPHALT CO	14012 GILES RD	OMAHA	NE	68138
UTILX CORPORATION	22820 RUSSELL RD	KENT	WA	98032
VECTOR CONSTRUCTION INC	3814 3RD AVE NW	FARGO	ND	58102
VEI GENERAL CONTRACTORS INC	P O BOX 1032	RUSSELLVILLE	AR	72811
VFP FIRE SYSTEMS INC	301 YORK AVE	ST PAUL	MN	55130
VICS CRANE & HEAVY HAUL INC	3000 145TH STREET EAST	ROSEMOUNT	MN	55068
VISIONSOFT INTERNATIONAL INC	1842 OLD NORCROSS RD 100	LAWRENCEVILLE	GA	30044
VISSEER BROTHERS INC	1946 TURNER NW	GRAND RAPIDS	MI	49504
VON ALST HOLDING COMPANY	2416 SMELTING WORKS RD	SWANSEA	IL	62226
WADES REFRIGERATION INC	P O BOX 2164	BATESVILLE	AR	72503
WALKER CONSTRUCTION CO INC	HWY 50 TO KAHOLA LAKE RD	EMPORIA	KS	66801
WALSH CONSTRUCTION COMPANY OF ILLIN	819 WALNUT	KANSAS CITY	MO	64106
WALT WAGNER CONSTRUCTION INC	305 S 5TH ST	LEAVENWORTH	KS	66048
WALTERS EXCAVATING	24060 K 68 HWY	PAOLA	KS	66071

<u>Contractor</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
WALTERS MORGAN CONSTRUCTION INC	2616 TUTTLE CREEK BLVD	MANHATTAN	KS	66502
WEATHERCRAFT COMPANY OF GRAND ISLAND	PO BOX 80459	LINCOLN	NE	68501
WEATHERCRAFT COMPANY OF LINCOLN	545 J ST	LINCOLN	NE	68508
WEGMAN INC	608 W LASLEY	ST MARYS	KS	66546
WELDMATION INC	31720 STEPHENSON HIGHWAY	MADISON HEIGHTS	MI	48071
WELSH COMPANIES	8200 NORMANDALE BLVD #200	MINNEAPOLIS	MN	55437
WES LOCHRIDGE & ASSOCIATES GENERAL CONTRACTORS INC	1520 S CLEVELAND AVE	JOPLIN	MO	64801
WESSELS CONSTRUCTION CO INC	1800 DES PLAINES AVE	FOREST PARK	IL	61030
WEST SIDE MECHANICAL INC	P O BOX 11247	KANSAS CITY	KS	66111
WESTERN CAROLINA PLUMBING	25 SANDTRAP RD	WAYNESVILLE	NC	28786
WESTIN CONSTRUCTION COMPANY	10828 NESBITT AVE SO	BLOOMINGTON	MN	55437
WH BASS INC	5664 D PEACHTREE PKWY	NORCROSS	GA	30092
WHITE OAK CONSTRUCTION INC MILLWRIGHT DIVISION	105 INDUSTRIAL DRIVE	BALD KNOB	AR	72010
WHITE STAR CONSTRUCTION INC	6175 MIZE ROAD	SHAWNEE	KS	66226
WHITING TURNER CONTRACTING CO THE	300 E JOPPA RD	BALTIMORE	MD	21286
WHITWORTH COMMERCIAL	7423 CLEARHAVEN	DALLAS	TX	75248
WILKS MASONRY CORPORATION	16858 IH 20	CISCO	TX	76437
WILLIAMS ELECTRIC CO INC	695 DENTON BLVD	FORT WALTON BEA	FL	32547
WINFIELD CONTRACTORS INC	212 NORTH PRAIRIE STREET	WAPELLO	IA	52653
WINGATE ARCHITECTURAL MILLWORKS CO	7516 US 59 NORTH	NACOGDOCHES	TX	75964
WISCONSIN FEED MILL BUILDERS INC	500 AMERICAN DRIVE	FRANCIS CREEK	WI	54214
WOODS CONSTRUCTION INC	6396 PRODUCT DRIVE	STERLING HEIGHTS	MI	48312
WORLEY CLAIMS SERVICE INC	4736 W NAPOLEAN AVE	METAIRIE	LA	70001
WR NEWMAN & ASSOCIATES INC	2854 LOGAN ST	NASHVILLE	TN	37211
XENA HOMES INC	3901 100TH ST SW #6	LAKEWOOD	WA	98499
YOKOGAWA CORPORATION OF AMERICA	2 DART RD	NEWMAN	GA	30265
YOUNGLOVE CONSTRUCTION LLC	2015 EAST 7TH STREET	SIOUX CITY	IA	51101
ZIMMERMAN CONSTRUCTION COMPANY INC	12509 HEMLOCK ST	OVERLAND PARK	KS	66213
ZOLFO COOPER	101 EISENHOWER PKY 3RD FL	ROSELAND	NJ	07068

**STATUTORY LIST OF CONTRACTORS
BARRED FROM PUBLIC WORKS PROJECTS**

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law and whose Notice of Conviction has been filed with the Secretary of State pursuant to section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works 1) to Michael B. Robin, 2) to any other contractor or subcontractor that is owned, operated, or controlled by Mr. Robin, including Plumbco, Inc., or 3) to any other simulation of Mr. Robin or of Plumbco, Inc., for a period of one (1) year, or until December 17, 2010.

Name of Contractor	Name of Officers	Address	Date of Conviction	Debarment Period
Michael B. Robin DBA Plumbco, Inc. Case No. 09AO-CR01174		7534 Heron Drive Neosho, MO 64804	12/17/09	12/17/2009-12/17/2010

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				30 MoReg 2435
1 CSR 15-3.290	Administrative Hearing Commission		35 MoReg 1381		
1 CSR 15-3.350	Administrative Hearing Commission	35 MoReg 1367	35 MoReg 1381		
1 CSR 15-3.380	Administrative Hearing Commission	35 MoReg 1367	35 MoReg 1382		
1 CSR 15-3.431	Administrative Hearing Commission		35 MoReg 1382		
1 CSR 15-3.436	Administrative Hearing Commission	35 MoReg 1368	35 MoReg 1383		
1 CSR 15-3.446	Administrative Hearing Commission	35 MoReg 1368	35 MoReg 1383		
1 CSR 15-3.480	Administrative Hearing Commission		35 MoReg 1384		
1 CSR 15-3.490	Administrative Hearing Commission	35 MoReg 1369	35 MoReg 1384		
1 CSR 15-3.500	Administrative Hearing Commission		35 MoReg 1384		
1 CSR 15-3.560	Administrative Hearing Commission		35 MoReg 1385		
1 CSR 20-1.010	Personnel Advisory Board and Division of Personnel	35 MoReg 1369	35 MoReg 1385		
1 CSR 20-1.030	Personnel Advisory Board and Division of Personnel	35 MoReg 1370	35 MoReg 1386		
1 CSR 20-2.015	Personnel Advisory Board and Division of Personnel	35 MoReg 1370	35 MoReg 1386		
1 CSR 20-3.010	Personnel Advisory Board and Division of Personnel	35 MoReg 1371	35 MoReg 1387		
1 CSR 20-3.020	Personnel Advisory Board and Division of Personnel	35 MoReg 1372	35 MoReg 1387		
1 CSR 20-3.030	Personnel Advisory Board and Division of Personnel	35 MoReg 1372	35 MoReg 1388		
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel	35 MoReg 1373	35 MoReg 1388		
1 CSR 20-3.080	Personnel Advisory Board and Division of Personnel	35 MoReg 1374	35 MoReg 1390		
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel	35 MoReg 1375	35 MoReg 1390		
1 CSR 20-4.020	Personnel Advisory Board and Division of Personnel	35 MoReg 1379	35 MoReg 1394		
1 CSR 50-3.010	Missouri Ethics Commission	35 MoReg 1379	35 MoReg 1400		
DEPARTMENT OF AGRICULTURE					
2 CSR 70-11.060	Plant Industries	35 MoReg 721	35 MoReg 756 35 MoReg 1453		
2 CSR 80-3.070	State Milk Board		35 MoReg 855	35 MoReg 1487	
2 CSR 90	Weights and Measures				35 MoReg 1284
DEPARTMENT OF CONSERVATION					
3 CSR 10-4.117	Conservation Commission		35 MoReg 1533		
3 CSR 10-5.225	Conservation Commission		35 MoReg 1533		
3 CSR 10-5.436	Conservation Commission		35 MoReg 1534		
3 CSR 10-5.567	Conservation Commission		35 MoReg 1534		
3 CSR 10-6.410	Conservation Commission		35 MoReg 1534		
3 CSR 10-6.505	Conservation Commission		35 MoReg 1400		
3 CSR 10-6.525	Conservation Commission		35 MoReg 1535		
3 CSR 10-6.535	Conservation Commission		35 MoReg 1401		
3 CSR 10-6.605	Conservation Commission		35 MoReg 1535		
3 CSR 10-7.410	Conservation Commission		35 MoReg 1535		
3 CSR 10-7.431	Conservation Commission		35 MoReg 1536		
3 CSR 10-7.432	Conservation Commission		35 MoReg 1536		
3 CSR 10-7.438	Conservation Commission		35 MoReg 1537		
3 CSR 10-7.440	Conservation Commission		N.A.	35 MoReg 1412	
3 CSR 10-7.445	Conservation Commission		35 MoReg 1537		
3 CSR 10-7.455	Conservation Commission		35 MoReg 1537		35 MoReg 316
3 CSR 10-8.510	Conservation Commission		35 MoReg 1538		
3 CSR 10-9.105	Conservation Commission		35 MoReg 1538		
3 CSR 10-9.110	Conservation Commission		35 MoReg 1541		
3 CSR 10-9.430	Conservation Commission		35 MoReg 1542		
3 CSR 10-9.440	Conservation Commission		35 MoReg 1542		
3 CSR 10-9.442	Conservation Commission		35 MoReg 1542		
3 CSR 10-11.130	Conservation Commission		35 MoReg 1246	This Issue	
3 CSR 10-11.155	Conservation Commission		35 MoReg 1545		
3 CSR 10-11.160	Conservation Commission		35 MoReg 1545		
3 CSR 10-11.180	Conservation Commission		35 MoReg 1545		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
3 CSR 10-11.181	Conservation Commission		35 MoReg 1546		
3 CSR 10-11.182	Conservation Commission		35 MoReg 1547		
3 CSR 10-11.205	Conservation Commission		35 MoReg 1547		
3 CSR 10-11.210	Conservation Commission		35 MoReg 1547		
3 CSR 10-11.215	Conservation Commission		35 MoReg 1548		
3 CSR 10-12.110	Conservation Commission		35 MoReg 1401		
3 CSR 10-12.115	Conservation Commission		35 MoReg 1402		
3 CSR 10-12.125	Conservation Commission		35 MoReg 1402		
3 CSR 10-12.140	Conservation Commission		35 MoReg 1403		
3 CSR 10-12.145	Conservation Commission		35 MoReg 1404		
3 CSR 10-12.155	Conservation Commission		35 MoReg 1405		
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 170-2.010	Missouri Housing Development Commission		35 MoReg 963R		
4 CSR 170-2.100	Missouri Housing Development Commission		35 MoReg 963		
4 CSR 170-3.010	Missouri Housing Development Commission		35 MoReg 964R		
4 CSR 170-3.100	Missouri Housing Development Commission		35 MoReg 964		
4 CSR 170-3.200	Missouri Housing Development Commission		35 MoReg 964		
4 CSR 170-4.010	Missouri Housing Development Commission		35 MoReg 965R		
4 CSR 170-4.100	Missouri Housing Development Commission		35 MoReg 965		
4 CSR 170-4.200	Missouri Housing Development Commission		35 MoReg 966		
4 CSR 170-4.300	Missouri Housing Development Commission		35 MoReg 966		
4 CSR 170-5.010	Missouri Housing Development Commission		35 MoReg 967R		
4 CSR 170-5.020	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.030	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.040	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.050	Missouri Housing Development Commission		35 MoReg 969R		
4 CSR 170-5.100	Missouri Housing Development Commission		35 MoReg 969		
4 CSR 170-5.200	Missouri Housing Development Commission		35 MoReg 970		
4 CSR 170-5.300	Missouri Housing Development Commission		35 MoReg 971		
4 CSR 170-5.400	Missouri Housing Development Commission		35 MoReg 971		
4 CSR 170-5.500	Missouri Housing Development Commission		35 MoReg 973		
4 CSR 170-6.010	Missouri Housing Development Commission		35 MoReg 973R		
4 CSR 170-6.100	Missouri Housing Development Commission		35 MoReg 974		
4 CSR 170-6.200	Missouri Housing Development Commission		35 MoReg 975		
4 CSR 240-3.163	Public Service Commission		This Issue		
4 CSR 240-3.164	Public Service Commission		This Issue		
4 CSR 240-20.093	Public Service Commission		This Issue		
4 CSR 240-20.094	Public Service Commission		This Issue		
4 CSR 240-123.080	Public Service Commission		This Issue		
4 CSR 240-125.090	Public Service Commission		This Issue		
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 50-270.010	Division of School Improvement		35 MoReg 210	This Issue	
			35 MoReg 1019		
5 CSR 50-321.010	Division of School Improvement		35 MoReg 857R		
5 CSR 50-350.040	Division of School Improvement		35 MoReg 1080R		
DEPARTMENT OF HIGHER EDUCATION					
6 CSR 250-11.041	University of Missouri	35 MoReg 161	34 MoReg 2592	35 MoReg 1413	
			35 MoReg 757		
6 CSR 250-11.042	University of Missouri		34 MoReg 2594	35 MoReg 1413	
			35 MoReg 762		
DEPARTMENT OF TRANSPORTATION					
7 CSR 10-16.010	Missouri Highways and Transportation Commission		35 MoReg 1173R		
7 CSR 10-16.020	Missouri Highways and Transportation Commission		35 MoReg 1173R		
			35 MoReg 1173		
7 CSR 10-16.025	Missouri Highways and Transportation Commission		35 MoReg 1174		
7 CSR 10-16.030	Missouri Highways and Transportation Commission		35 MoReg 1174R		
7 CSR 10-16.035	Missouri Highways and Transportation Commission		35 MoReg 1175		
7 CSR 10-16.040	Missouri Highways and Transportation Commission		35 MoReg 1178R		
7 CSR 10-16.045	Missouri Highways and Transportation Commission		35 MoReg 1178		
7 CSR 10-16.050	Missouri Highways and Transportation Commission		35 MoReg 1180		
7 CSR 10-25.010	Missouri Highways and Transportation Commission				35 MoReg 1424
7 CSR 60-2.010	Highway Safety Division	35 MoReg 722	35 MoReg 764	35 MoReg 1489	
7 CSR 60-2.030	Highway Safety Division	35 MoReg 724	35 MoReg 765	35 MoReg 1489	
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS					
8 CSR 30-3.060	Division of Labor Standards		35 MoReg 1405		
DEPARTMENT OF MENTAL HEALTH					
9 CSR 30-4.034	Certification Standards		35 MoReg 935	35 MoReg 1414	
9 CSR 30-4.045	Certification Standards	35 MoReg 1017	35 MoReg 1022		
DEPARTMENT OF NATURAL RESOURCES					
10 CSR 10-2.070	Air Conservation Commission		35 MoReg 766R	35 MoReg 1414R	
10 CSR 10-3.090	Air Conservation Commission		35 MoReg 766R	35 MoReg 1415R	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
10 CSR 10-4.070	Air Conservation Commission		35 MoReg 767R	35 MoReg 1415R	
10 CSR 10-5.160	Air Conservation Commission		35 MoReg 767R	35 MoReg 1415R	
10 CSR 10-5.480	Air Conservation Commission		35 MoReg 1080		
10 CSR 10-6.020	Air Conservation Commission		35 MoReg 858	35 MoReg 1575	
10 CSR 10-6.070	Air Conservation Commission		35 MoReg 1091		
10 CSR 10-6.075	Air Conservation Commission		35 MoReg 1092		
10 CSR 10-6.080	Air Conservation Commission		35 MoReg 1094		
10 CSR 10-6.165	Air Conservation Commission		35 MoReg 768	35 MoReg 1415	
10 CSR 10-6.400	Air Conservation Commission		35 MoReg 1095		
10 CSR 20-8.110	Clean Water Commission		35 MoReg 1454		
10 CSR 60-4.025	Safe Drinking Water Commission		35 MoReg 769	35 MoReg 1575	
10 CSR 60-5.010	Safe Drinking Water Commission		35 MoReg 778	35 MoReg 1578	
10 CSR 60-7.010	Safe Drinking Water Commission		35 MoReg 778	35 MoReg 1578	
10 CSR 60-8.010	Safe Drinking Water Commission		35 MoReg 781	35 MoReg 1579	
10 CSR 60-8.030	Safe Drinking Water Commission		35 MoReg 785	35 MoReg 1579	
10 CSR 60-9.010	Safe Drinking Water Commission		35 MoReg 793	35 MoReg 1579	
10 CSR 70-4.010	Soil and Water Districts Commission		35 MoReg 214R		
			35 MoReg 214		
10 CSR 70-5.010	Soil and Water Districts Commission	34 MoReg 1779	35 MoReg 216R		
			35 MoReg 216		
10 CSR 70-5.040	Soil and Water Districts Commission	34 MoReg 1783	35 MoReg 217R		
			35 MoReg 217		
10 CSR 70-5.050	Soil and Water Districts Commission	34 MoReg 1785	35 MoReg 217R		
			35 MoReg 217		
10 CSR 70-5.060	Soil and Water Districts Commission	34 MoReg 1786	35 MoReg 219R		
			35 MoReg 219		
10 CSR 140-2.010	Division of Energy	35 MoReg 1523	35 MoReg 1548		
10 CSR 140-2.020	Division of Energy	35 MoReg 1525	35 MoReg 1550		
10 CSR 140-2.030	Division of Energy	35 MoReg 1527R	35 MoReg 1554R		
10 CSR 140-8.010	Division of Energy		35 MoReg 1022		
DEPARTMENT OF PUBLIC SAFETY					
11 CSR 45-1.010	Missouri Gaming Commission		35 MoReg 1095		
11 CSR 45-1.090	Missouri Gaming Commission		35 MoReg 1246		
11 CSR 45-4.020	Missouri Gaming Commission		35 MoReg 1247		
11 CSR 45-5.051	Missouri Gaming Commission		35 MoReg 1249		
11 CSR 45-5.075	Missouri Gaming Commission		35 MoReg 1250		
11 CSR 45-5.200	Missouri Gaming Commission		35 MoReg 1250		
11 CSR 45-5.300	Missouri Gaming Commission		35 MoReg 1251		
11 CSR 45-9.113	Missouri Gaming Commission		35 MoReg 1096		
11 CSR 45-9.114	Missouri Gaming Commission		35 MoReg 1098		
11 CSR 45-9.115	Missouri Gaming Commission		35 MoReg 975	35 MoReg 1579	
11 CSR 45-9.118	Missouri Gaming Commission		35 MoReg 1098		
11 CSR 45-30.020	Missouri Gaming Commission		35 MoReg 1252		
11 CSR 45-30.025	Missouri Gaming Commission		35 MoReg 1252		
11 CSR 45-30.030	Missouri Gaming Commission		35 MoReg 1253R		
11 CSR 45-30.035	Missouri Gaming Commission		35 MoReg 1253		
11 CSR 45-30.070	Missouri Gaming Commission		35 MoReg 1254		
11 CSR 45-30.175	Missouri Gaming Commission		35 MoReg 1254		
11 CSR 45-30.190	Missouri Gaming Commission	35 MoReg 1241	35 MoReg 1254		
11 CSR 45-30.205	Missouri Gaming Commission		35 MoReg 1255		
11 CSR 45-30.210	Missouri Gaming Commission		35 MoReg 1255		
11 CSR 45-30.225	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.355	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.535	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.540	Missouri Gaming Commission		35 MoReg 1257		
11 CSR 45-30.600	Missouri Gaming Commission		35 MoReg 1257		
DEPARTMENT OF REVENUE					
12 CSR 10-2.250	Director of Revenue		35 MoReg 1029	35 MoReg 1579	
12 CSR 10-3.052	Director of Revenue		35 MoReg 1405R		
12 CSR 10-3.112	Director of Revenue		35 MoReg 1257R		
12 CSR 10-3.118	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.126	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.130	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.134	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.140	Director of Revenue		35 MoReg 1259R		
12 CSR 10-3.146	Director of Revenue		35 MoReg 1259R		
12 CSR 10-3.192	Director of Revenue		35 MoReg 1259R		
12 CSR 10-3.194	Director of Revenue		35 MoReg 1259R		
12 CSR 10-3.196	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.198	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.204	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.228	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.264	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.266	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.288	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.330	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.333	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.350	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.352	Director of Revenue		35 MoReg 1315R		
12 CSR 10-3.354	Director of Revenue		35 MoReg 1315R		
12 CSR 10-3.376	Director of Revenue		35 MoReg 1315R		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
12 CSR 10-3.382	Director of Revenue		35 MoReg 1315R		
12 CSR 10-3.388	Director of Revenue		35 MoReg 1316R		
12 CSR 10-3.406	Director of Revenue		35 MoReg 1316R		
12 CSR 10-3.414	Director of Revenue		35 MoReg 1316R		
12 CSR 10-3.426	Director of Revenue		35 MoReg 1406R		
12 CSR 10-3.428	Director of Revenue		35 MoReg 1406R		
12 CSR 10-3.431	Director of Revenue		35 MoReg 1406R		
12 CSR 10-3.434	Director of Revenue		35 MoReg 1406R		
12 CSR 10-3.436	Director of Revenue		35 MoReg 1407R		
12 CSR 10-3.438	Director of Revenue		35 MoReg 1407R		
12 CSR 10-3.443	Director of Revenue		35 MoReg 1407R		
12 CSR 10-3.444	Director of Revenue		35 MoReg 1408R		
12 CSR 10-3.446	Director of Revenue		35 MoReg 1408R		
12 CSR 10-3.490	Director of Revenue		35 MoReg 1408R		
12 CSR 10-3.496	Director of Revenue		35 MoReg 1408R		
12 CSR 10-3.498	Director of Revenue		35 MoReg 1476R		
12 CSR 10-3.504	Director of Revenue		35 MoReg 1476R		
12 CSR 10-3.506	Director of Revenue		35 MoReg 1476R		
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12 CSR 10-3.862	Director of Revenue		35 MoReg 1479R		
12 CSR 10-3.868	Director of Revenue		This IssueR		
12 CSR 10-3.870	Director of Revenue		35 MoReg 1479R		
12 CSR 10-3.884	Director of Revenue		This IssueR		
12 CSR 10-3.886	Director of Revenue		This IssueR		
12 CSR 10-3.896	Director of Revenue		This IssueR		
12 CSR 10-24.305	Director of Revenue		35 MoReg 1316		
12 CSR 10-24.430	Director of Revenue	35 MoReg 1065	35 MoReg 1100	This Issue	
12 CSR 10-24.480	Director of Revenue	35 MoReg 1066	35 MoReg 1103	This Issue	
12 CSR 10-24.485	Director of Revenue	35 MoReg 1066	35 MoReg 1106	This Issue	
12 CSR 10-26.020	Director of Revenue	35 MoReg 1309	35 MoReg 1317		
12 CSR 10-44.100	Director of Revenue		35 MoReg 1554		
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13 CSR 30-2.010	Child Support Enforcement		This Issue		
13 CSR 35-38.011	Children's Division		35 MoReg 976	35 MoReg 1489	
13 CSR 35-38.021	Children's Division		35 MoReg 976	35 MoReg 1489	
13 CSR 35-38.030	Children's Division (<i>Changed from 13 CSR 40-38.010</i>)		35 MoReg 976	35 MoReg 1489	
13 CSR 35-38.040	Children's Division (<i>Changed from 13 CSR 40-38.020</i>)		35 MoReg 977	35 MoReg 1490	
13 CSR 40-2.370	Family Support Division		35 MoReg 1556		
13 CSR 40-38.010	Family Support Division (<i>Changed to 13 CSR 35-38.030</i>)		35 MoReg 976	35 MoReg 1489	
13 CSR 40-38.020	Family Support Division (<i>Changed to 13 CSR 35-38.040</i>)		35 MoReg 977	35 MoReg 1490	
13 CSR 40-91.040	Family Support Division (<i>Changed from 19 CSR 40-11.010</i>)		35 MoReg 1482		
13 CSR 70-3.020	MO HealthNet Division		35 MoReg 977	35 MoReg 1580	
13 CSR 70-3.130	MO HealthNet Division		35 MoReg 1261		
13 CSR 70-3.140	MO HealthNet Division		35 MoReg 980	35 MoReg 1580	
13 CSR 70-3.160	MO HealthNet Division		35 MoReg 980	35 MoReg 1580	
13 CSR 70-3.200	MO HealthNet Division		35 MoReg 685	35 MoReg 1418	
13 CSR 70-15.010	MO HealthNet Division	35 MoReg 1067	35 MoReg 1108		
13 CSR 70-15.110	MO HealthNet Division	35 MoReg 1070	35 MoReg 1111		
13 CSR 70-15.160	MO HealthNet Division	35 MoReg 1527	35 MoReg 1556		
13 CSR 70-20.320	MO HealthNet Division	35 MoReg 1072	35 MoReg 1114		
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13 CSR 70-91.030	MO HealthNet Division		35 MoReg 1029R	35 MoReg 1580R	
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15 CSR 30-50.010	Secretary of State		35 MoReg 1479		
15 CSR 30-51.020	Secretary of State		35 MoReg 1480		
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16 CSR 10-4.010	The Public School Retirement System of Missouri		35 MoReg 1262		
16 CSR 10-5.010	The Public School Retirement System of Missouri		35 MoReg 1263		
16 CSR 10-6.040	The Public School Retirement System of Missouri		35 MoReg 1263		
16 CSR 50-2.010	The County Employees' Retirement Fund		35 MoReg 1029	35 MoReg 1580	
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16 CSR 50-2.030	The County Employees' Retirement Fund		35 MoReg 1030	35 MoReg 1581	
16 CSR 50-2.050	The County Employees' Retirement Fund		35 MoReg 1031	35 MoReg 1581	
16 CSR 50-2.110	The County Employees' Retirement Fund		35 MoReg 1031	35 MoReg 1581	
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18 CSR 10-2.010	Office of State Public Defender		35 MoReg 1180		
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19 CSR 30-1.074	Division of Regulation and Licensure	35 MoReg 1072	35 MoReg 1116		
19 CSR 40-11.010	Division of Maternal, Child and Family Health (<i>Changed to 13 CSR 40-91.040</i>)		35 MoReg 1482		
19 CSR 60-50	Missouri Health Facilities Review Committee				35 MoReg 1329 35 MoReg 1583
19 CSR 60-50.200	Missouri Health Facilities Review Committee		35 MoReg 1562		
19 CSR 60-50.300	Missouri Health Facilities Review Committee		35 MoReg 1562		
19 CSR 60-50.400	Missouri Health Facilities Review Committee		35 MoReg 1563		
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19 CSR 60-50.700	Missouri Health Facilities Review Committee		35 MoReg 1572		
19 CSR 60-50.800	Missouri Health Facilities Review Committee		35 MoReg 1573		
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION					
20 CSR	Construction Claims Binding Arbitration Cap				33 MoReg 150 33 MoReg 2446 35 MoReg 654
20 CSR	Medical Malpractice				31 MoReg 616 32 MoReg 545
20 CSR	Sovereign Immunity Limits				33 MoReg 150 33 MoReg 2446 35 MoReg 318
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20 CSR 400-2.180	Life, Annuities and Health		35 MoReg 1485		
20 CSR 500-10.200	Property and Casualty		35 MoReg 793	35 MoReg 1581	
20 CSR 1140-30.010	Division of Finance	35 MoReg 725R	35 MoReg 794R	35 MoReg 1490R	
20 CSR 1140-30.030	Division of Finance	35 MoReg 727R	35 MoReg 794R	35 MoReg 1490R	
20 CSR 1140-30.040	Division of Finance	35 MoReg 728R	35 MoReg 794R	35 MoReg 1490R	
20 CSR 1140-30.050	Division of Finance	35 MoReg 729R	35 MoReg 795R	35 MoReg 1490R	
20 CSR 1140-30.070	Division of Finance	35 MoReg 730R	35 MoReg 795R	35 MoReg 1491R	
20 CSR 1140-30.080	Division of Finance	35 MoReg 731R	35 MoReg 795R	35 MoReg 1491R	
20 CSR 1140-30.090	Division of Finance	35 MoReg 732R	35 MoReg 796R	35 MoReg 1491R	
20 CSR 1140-30.100	Division of Finance	35 MoReg 733R	35 MoReg 796R	35 MoReg 1491R	
20 CSR 1140-30.110	Division of Finance	35 MoReg 734R	35 MoReg 797R	35 MoReg 1491R	
20 CSR 1140-30.120	Division of Finance	35 MoReg 736R	35 MoReg 797R	35 MoReg 1491R	
20 CSR 1140-30.200	Division of Finance	35 MoReg 737	35 MoReg 797	35 MoReg 1492	
20 CSR 1140-30.210	Division of Finance	35 MoReg 738	35 MoReg 798	35 MoReg 1492	
20 CSR 1140-30.220	Division of Finance	35 MoReg 739	35 MoReg 800	35 MoReg 1492	
20 CSR 1140-30.230	Division of Finance	35 MoReg 741	35 MoReg 800	35 MoReg 1492	
20 CSR 1140-30.240	Division of Finance	35 MoReg 742	35 MoReg 800	35 MoReg 1492	
20 CSR 1140-30.250	Division of Finance	35 MoReg 743	35 MoReg 803	35 MoReg 1492	
20 CSR 1140-30.260	Division of Finance	35 MoReg 744	35 MoReg 803	35 MoReg 1493	
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20 CSR 1140-30.280	Division of Finance	35 MoReg 747	35 MoReg 804	35 MoReg 1493	
20 CSR 1140-30.290	Division of Finance	35 MoReg 748	35 MoReg 805	35 MoReg 1493	
20 CSR 1140-30.300	Division of Finance	35 MoReg 749	35 MoReg 807	35 MoReg 1493	
20 CSR 1140-30.310	Division of Finance	35 MoReg 750	35 MoReg 807	35 MoReg 1493	
20 CSR 1140-30.320	Division of Finance	35 MoReg 752	35 MoReg 810	35 MoReg 1494	
20 CSR 1140-31.010	Division of Finance		35 MoReg 810	35 MoReg 1494	
20 CSR 1140-31.020	Division of Finance		35 MoReg 810	35 MoReg 1494	
20 CSR 2030-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects	35 MoReg 1242	35 MoReg 1264		
20 CSR 2070-2.090	State Board of Chiropractic Examiners	This Issue			
20 CSR 2110-2.240	Missouri Dental Board		35 MoReg 1267		
20 CSR 2120-2.100	State Board of Embalmers and Funeral Directors	35 MoReg 1242	35 MoReg 1267		
20 CSR 2120-2.105	State Board of Embalmers and Funeral Directors		35 MoReg 1271R		
20 CSR 2150-5.100	State Board of Registration for the Healing Arts		35 MoReg 869R 35 MoReg 870	35 MoReg 1420R 35 MoReg 1420	

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20 CSR 2200-4.100	State Board of Nursing		35 MoReg 872R	35 MoReg 1421R	
			35 MoReg 872	35 MoReg 1421	
20 CSR 2200-4.200	State Board of Nursing		35 MoReg 879R	35 MoReg 1422R	
			35 MoReg 879	35 MoReg 1422	
20 CSR 2205-5.010	Missouri Board of Occupational Therapy		35 MoReg 1271R		
			35 MoReg 1271		
20 CSR 2210-2.030	State Board of Optometry		35 MoReg 1409		
20 CSR 2220-2.005	State Board of Pharmacy	35 MoReg 1451	35 MoReg 1485		
20 CSR 2234-1.050	Board of Private Investigator Examiners		This Issue		
20 CSR 2263-2.031	State Committee for Social Workers	35 MoReg 1310	35 MoReg 1320		
20 CSR 2263-2.045	State Committee for Social Workers	35 MoReg 1311	35 MoReg 1320		
20 CSR 2263-2.050	State Committee for Social Workers	35 MoReg 1312	35 MoReg 1323		
MISSOURI CONSOLIDATED HEALTH CARE PLAN					
22 CSR 10-2.070	Health Care Plan		35 MoReg 1124R	This IssueR	
			35 MoReg 1124	This Issue	
22 CSR 10-3.070	Health Care Plan		35 MoReg 1129R	This IssueR	
			35 MoReg 1129	This Issue	

Emergency Rule Table

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Office of Administration			
Administrative Hearing Commission			
1 CSR 15-3.350	Complaints35 MoReg 1367	Sept. 9, 2010March 7, 2011
1 CSR 15-3.380	Answers and Other Responsive Pleadings . . . . .	.35 MoReg 1367	Sept. 9, 2010March 7, 2011
1 CSR 15-3.436	Involuntary Dismissal . . . . .	.35 MoReg 1368	Sept. 9, 2010March 7, 2011
1 CSR 15-3.446	Decision on the Complaint without a Hearing . . . . .	.35 MoReg 1368	Sept. 9, 2010March 7, 2011
1 CSR 15-3.490	Hearings on Complaints; Default . . . . .	.35 MoReg 1369	Sept. 9, 2010March 7, 2011
Personnel Advisory Board and Division of Personnel			
1 CSR 20-1.010	General Organization . . . . .	.35 MoReg 1369	Sept. 7, 2010March 5, 2011
1 CSR 20-1.030	Personnel Rules . . . . .	.35 MoReg 1370	Sept. 7, 2010March 5, 2011
1 CSR 20-2.015	Broad Classification Bands for Managers . . . . .	.35 MoReg 1370	Sept. 7, 2010March 5, 2011
1 CSR 20-3.010	Examinations . . . . .	.35 MoReg 1371	Sept. 7, 2010March 5, 2011
1 CSR 20-3.020	Registers . . . . .	.35 MoReg 1372	Sept. 7, 2010March 5, 2011
1 CSR 20-3.030	Certification and Appointment . . . . .	.35 MoReg 1372	Sept. 7, 2010March 5, 2011
1 CSR 20-3.070	Separation, Suspension, and Demotion . . . . .	.35 MoReg 1373	Sept. 7, 2010March 5, 2011
1 CSR 20-3.080	General Provisions and Prohibitions . . . . .	.35 MoReg 1374	Sept. 7, 2010March 5, 2011
1 CSR 20-4.010	Appeals . . . . .	.35 MoReg 1375	Sept. 7, 2010March 5, 2011
1 CSR 20-4.020	Grievance Procedures . . . . .	.35 MoReg 1379	Sept. 7, 2010March 5, 2011
Missouri Ethics Commission			
1 CSR 50-3.010	Late Fee . . . . .	.35 MoReg 1379	Sept. 9, 2010March 7, 2011
Department of Agriculture			
Plant Industries			
2 CSR 70-11.060	Thousand Cankers Disease of Walnut Exterior Quarantine . . . . .	.35 MoReg 721	April 12, 2010Jan. 19, 2011
Department of Transportation			
Highway Safety Division			
7 CSR 60-2.010	Definitions . . . . .	.35 MoReg 722	April 18, 2010Nov. 30, 2010
7 CSR 60-2.030	Standards and Specifications . . . . .	.35 MoReg 724	April 18, 2010Nov. 30, 2010
Department of Mental Health			
Certification Standards			
9 CSR 30-4.045	Intensive Community Psychiatric Rehabilitation . . . . .	.35 MoReg 1017	July 1, 2010Feb. 24, 2011
Department of Natural Resources			
Division of Energy			
10 CSR 140-2.010	Definitions . . . . .	.35 MoReg 1523	Oct. 10, 2010April 7, 2011
10 CSR 140-2.020	General Provisions . . . . .	.35 MoReg 1525	Oct. 10, 2010April 7, 2011
10 CSR 140-2.030	Public Sector Eligibility . . . . .	.35 MoReg 1527	Oct. 10, 2010April 7, 2011
Department of Public Safety			
Missouri Gaming Commission			
11 CSR 45-30.190	Rules of Play . . . . .	.35 MoReg 1241	Aug. 28, 2010Feb. 23, 2011
Department of Revenue			
Director of Revenue			
12 CSR 10-24.430	Back of Driver License, Permits and Nondriver License . . . . .	.35 MoReg 1065	July 1, 2010Dec. 28, 2010
12 CSR 10-24.480	Boater Identification Indicator on Driver or Nondriver License . . . . .	.35 MoReg 1066	July 1, 2010Dec. 28, 2010
12 CSR 10-24.485	Permanent Disability Indicator on Driver or Nondriver License . . . . .	.35 MoReg 1066	July 4, 2010Dec. 31, 2010
12 CSR 10-26.020	License Requirements for Auctions, Dealers, Franchisors, and Manufacturers . . . . .	.35 MoReg 1309	Aug. 28, 2010Feb. 24, 2011
12 CSR 10-41.010	Annual Adjusted Rate of Interest	Next Issue	Jan. 1, 2011June 29, 2011

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Department of Social Services			
MO HealthNet Division			
13 CSR 70-15.010	Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology35 MoReg 1067	July 1, 2010	Dec. 27, 2010
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)35 MoReg 1070	July 1, 2010	Dec. 27, 2010
13 CSR 70-15.160	Prospective Outpatient Hospital Services Reimbursement Methodology35 MoReg 1527	Oct. 1, 2010	March 29, 2011
13 CSR 70-20.320	Pharmacy Reimbursement Allowance35 MoReg 1072	July 1, 2010	Dec. 27, 2010
Department of Health and Senior Services			
Division of Regulation and Licensure			
19 CSR 30-1.074	Dispensing Without a Prescription35 MoReg 1072	Sept. 28, 2010	March 26, 2011
Department of Insurance, Financial Institutions and Professional Registration			
Division of Finance			
20 CSR 1140-30.010	Definitions35 MoReg 725	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.030	Licensing35 MoReg 727	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.040	Operations and Supervision35 MoReg 728	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.050	Annual Report of Mortgage Brokerage Activity and Mortgage Servicing Activity35 MoReg 729	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.070	Advertising35 MoReg 730	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.080	Loan Brokerage Practices35 MoReg 731	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.090	Loan Application Practices35 MoReg 732	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.100	General Practices35 MoReg 733	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.110	Commitment and Closing Practices35 MoReg 734	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.120	Exemption Guidelines35 MoReg 736	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.200	Definitions35 MoReg 737	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.210	Licensing of Mortgage Loan Originators35 MoReg 738	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.220	Self-Reporting Requirements35 MoReg 739	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.230	Challenges to Information Submitted to NMLSR35 MoReg 741	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.240	Operations and Supervision of Residential Mortgage Loan Brokers35 MoReg 742	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.250	Change in Business Activities35 MoReg 743	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.260	Full-Service Office Requirement35 MoReg 744	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.270	Maintenance of Records35 MoReg 745	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.280	Authorized Advance Fees and Escrow Requirements35 MoReg 747	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.290	In-State Office Waiver For Services35 MoReg 748	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.300	Annual Report35 MoReg 749	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.310	Bonding Requirements35 MoReg 750	April 18, 2009	Jan. 26, 2011
20 CSR 1140-30.320	Exempt List35 MoReg 752	April 18, 2009	Jan. 26, 2011
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects			
20 CSR 2030-6.015	Application, Renewal, Reinstatement, Relicensure, and Miscellaneous Fees35 MoReg 1242	July 30, 2010	Feb. 24, 2011
State Board of Chiropractic Examiners			
20 CSR 2070-2.090	FeesThis Issue	Oct. 18, 2010	April 15, 2011
State Board of Embalmers and Funeral Directors			
20 CSR 2120-2.100	Fees35 MoReg 1242	Aug. 5, 2010	Feb. 24, 2011
State Board of Pharmacy			
20 CSR 2220-2.005	Definitions35 MoReg 1451	Sept. 13, 2010	March 11, 2011
State Committee for Social Workers			
20 CSR 2263-2.031	Acceptable Supervisors and Supervisor Responsibilities35 MoReg 1310	Aug. 28, 2010	Feb. 24, 2011
20 CSR 2263-2.045	Provisional Licenses35 MoReg 1311	Aug. 28, 2010	Feb. 24, 2011
20 CSR 2263-2.050	Application for Licensure as a Social Worker35 MoReg 1312	Aug. 28, 2010	Feb. 24, 2011

Executive Orders

Executive Orders	Subject Matter	Filed Date	Publication
2010			
Emergency Declaration	Proclaims an emergency declaration concerning the damage and structural integrity of the State Route A bridge over the Weldon Fork of the Thompson River	Sept. 28, 2010	35 MoReg 1531
10-26	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	Sept. 24, 2010	35 MoReg 1529
10-25	Extends the declaration of emergency contained in Executive Order 10-22 for the purpose of protecting the safety and welfare of our fellow Missourians	July 20, 2010	35 MoReg 1244
10-24	Creates the Code of Fair Practices for the Executive Branch of State Government and supersedes paragraph one of Executive Order 05-30	July 9, 2010	35 MoReg 1167
Emergency Declaration	Proclaims that an emergency exists concerning the damage and structural integrity of the U.S. Route 24 bridge over the Grand River	July 2, 2010	35 MoReg 1165
10-23	Activates the state militia in response to severe weather that began on June 12	June 23, 2010	35 MoReg 1078
10-22	Declares a state of emergency and directs the Missouri State Emergency Operations Plan be activated due to severe weather that began on June 12	June 21, 2010	35 MoReg 1076
10-21	Activates the Missouri State Emergency Operations Center	June 15, 2010	35 MoReg 1018
10-20	Establishes the Missouri Civil War Sesquicentennial Commission	April 2, 2010	35 MoReg 754
10-19	Amends Executive Order 09-17 to give the commissioner of the Office of Administration supervisory authority over the Transform Missouri Project	March 2, 2010	35 MoReg 637
10-18	Establishes the Children in Nature Challenge to challenge Missouri communities to take action to enhance children's education about nature, and to increase children's opportunities to personally experience nature and the outdoors	Feb. 26, 2010	35 MoReg 573
10-17	Establishes a Missouri Emancipation Day Commission to promote, consider, and recommend appropriate activities for the annual recognition and celebration of Emancipation Day	Feb. 2, 2010	35 MoReg 525
10-16	Transfers the scholarship portion of the A+ Schools Program from the Missouri Department of Elementary and Secondary Education to the Missouri Department of Higher Education	Jan. 29, 2010	35 MoReg 447
10-15	Transfers the Breath Alcohol Program from the Missouri Department of Transportation to the Missouri Department of Health and Senior Services	Jan. 29, 2010	35 MoReg 445
10-14	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	Jan. 29, 2010	35 MoReg 443
10-13	Directs the Department of Social Services to disband the Missouri Task Force on Youth Aging Out of Foster Care	Jan. 15, 2010	35 MoReg 364
10-12	Rescinds Executive Orders 98-14, 95-21, 95-17, and 94-19 and terminates the Governor's Commission on Driving While Intoxicated and Impaired Driving	Jan. 15, 2010	35 MoReg 363
10-11	Rescinds Executive Order 05-41 and terminates the Governor's Advisory Council for Veterans Affairs and assigns its duties to the Missouri Veterans Commission	Jan. 15, 2010	35 MoReg 362
10-10	Rescinds Executive Order 01-08 and terminates the Personal Independence Commission and assigns its duties to the Governor's Council on Disability	Jan. 15, 2010	35 MoReg 361
10-09	Rescinds Executive Orders 95-10, 96-11, and 98-13 and terminates the Governor's Council on AIDS and transfers their duties to the Statewide HIV/STD Prevention Community Planning Group within the Department of Health and Senior Services	Jan. 15, 2010	35 MoReg 360
10-08	Rescinds Executive Order 04-07 and terminates the Missouri Commission on Patient Safety	Jan. 15, 2010	35 MoReg 358
10-07	Rescinds Executive Order 01-16 and terminates the Missouri Commission on Intergovernmental Cooperation	Jan. 15, 2010	35 MoReg 357
10-06	Rescinds Executive Order 05-13 and terminates the Governor's Advisory Council on Plant Biotechnology and assigns its duties to the Missouri Technology Corporation	Jan. 15, 2010	35 MoReg 356
10-05	Rescinds Executive Order 95-28 and terminates the Missouri Board of Geographic Names	Jan. 15, 2010	35 MoReg 355
10-04	Rescinds Executive Order 03-10 and terminates the Missouri Energy Policy Council	Jan. 15, 2010	35 MoReg 354
10-03	Rescinds Executive Order 03-01 and terminates the Missouri Lewis and Clark Bicentennial Commission	Jan. 15, 2010	35 MoReg 353

Executive Orders	Subject Matter	Filed Date	Publication
10-02	Rescinds Executive Order 07-29 and terminates the Governor's Advisory Council on Aging and assigns its duties to the State Board of Senior Services	Jan. 15, 2010	35 MoReg 352
10-01	Rescinds Executive Order 01-15 and terminates the Missouri Commission on Total Compensation	Jan. 15, 2010	35 MoReg 351
2009			
09-29	Outlines the suspension of federal commercial motor vehicle and driver laws during emergency declarations. Executive Orders 07-01 and 08-40 are superceded and replaced on February 1, 2010	December 31, 2009	35 MoReg 205
09-28	Establishes the post of Missouri Poet Laureate. Executive order 08-01 is superceded and replaced	December 24, 2009	35 MoReg 203
09-27	Creates the Missouri Office of Health Information Technology, referred to as MO-HITECH. Executive Order 06-03 is rescinded	November 4, 2009	34 MoReg 2587
09-26	Advises that state offices will be closed November 27, 2009	October 30, 2009	34 MoReg 2466
09-25	Creates the governor's faith-based and community service partnership for disaster recovery	September 21, 2009	34 MoReg 2361
09-24	Creates the prompt pay for a healthy Missouri project	September 11, 2009	34 MoReg 2313
09-23	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	September 1, 2009	34 MoReg 2139
09-22	Appoints the Home Building and Residential Energy Efficiency Advisory panel to issue recommendations on energy efficiency measures for the home building sector and consumers	August 20, 2009	34 MoReg 2137
09-21	Declares a state of emergency exists in the state of Missouri and directs that Missouri State Emergency Operations Plan remain activated	May 14, 2009	34 MoReg 1332
09-20	Gives the director of the Missouri Department of Natural Resources full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the interests of the public health and safety during the period of the emergency and the subsequent recovery period	May 12, 2009	34 MoReg 1331
09-19	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	May 8, 2009	34 MoReg 1329
09-18	Orders that all state agencies whose building management falls under the direction of the Office of Administration shall institute policies that will result in reductions of energy consumption of two percent per year for each of the next ten years	April 23, 2009	34 MoReg 1273
09-17	Creates the Transform Missouri Project as well as the Taxpayer Accountability, Compliance, and Transparency Unit, and rescinds Executive Order 09-12	March 31, 2009	34 MoReg 828
09-16	Directs the Department of Corrections to lead a permanent, interagency steering team for the Missouri Reentry Process	March 26, 2009	34 MoReg 826
09-15	Expands the Missouri Automotive Jobs Task Force to consist of 18 members	March 24, 2009	34 MoReg 824
09-14	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	March 5, 2009	34 MoReg 761
09-13	Extends Executive Order 09-04 and Executive Order 09-07 through March 31, 2009	February 25, 2009	34 MoReg 657
09-12	Creates and establishes the Transform Missouri Initiative	February 20, 2009	34 MoReg 655
09-11	Orders the Department of Health and Senior Services and the Department of Social Services to transfer the Blindness Education, Screening and Treatment Program (BEST) to the Department of Social Services	February 4, 2009	34 MoReg 590
09-10	Orders the Department of Elementary and Secondary Education and the Department of Economic Development to transfer the Missouri Customized Training Program to the Department of Economic Development	February 4, 2009	34 MoReg 588
09-09	Transfers the various scholarship programs under the Departments of Agriculture, Elementary and Secondary Education, Higher Education, and Natural Resources to the Department of Higher Education	February 4, 2009	34 MoReg 585
09-08	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	February 2, 2009	34 MoReg 366
09-07	Gives the director of the Missouri Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe weather that began on January 26	January 30, 2009	34 MoReg 364
09-06	Activates the state militia in response to the aftermath of severe storms that began on January 26	January 28, 2009	34 MoReg 362
09-05	Establishes a Complete Count Committee for the 2010 Census	January 27, 2009	34 MoReg 359

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09-04	Declares a state of emergency and activates the Missouri State Emergency Operations Plan	January 26, 2009	34 MoReg 357
09-03	Directs the Missouri Department of Economic Development, working with the Missouri Development Finance Board, to create a pool of funds designated for low-interest and no-interest direct loans for small business	January 13, 2009	34 MoReg 281
09-02	Creates the Economic Stimulus Coordination Council	January 13, 2009	34 MoReg 279
09-01	Creates the Missouri Automotive Jobs Task Force	January 13, 2009	34 MoReg 277

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Leave room in your chapters for expansion of rules. Normally rule numbers should be assigned in increments of ten (10)–15 CSR 30-997.010, 15 CSR 30-997.020, etc. This way, you should have room to add rules between numbers in the future should the need to do so arise.

For more about rule numbering please see page 5.02A of *Rulemaking 1-2-3 Drafting and Style Manual* which can be found online at <http://www.sos.mo.gov/adrules/manual/manual.asp>.